

RESOLUTION NO. 2023-XX

**APPROVAL OF GUIDELINES FOR THE SUBMISSION AND
TABULATION OF PROTESTS IN CONNECTION WITH RATE
HEARINGS CONDUCTED PURSUANT TO ARTICLE XIID, SECTION 6
OF THE CALIFORNIA CONSTITUTION**

WHEREAS, Article XIID, Section 6 of the California Constitution requires the City of Los Altos (City) City Council to consider written protests to certain proposed increases to utility fees, rates or user charges (Fees); and

WHEREAS this Constitutional provision does not offer specific guidance as to who may submit protests, how written protests are to be submitted, or how the City is to tabulate protests.

WHEREAS, upon adoption of this Resolution, any and all resolutions, or rules or regulations of this City in conflict with it, shall be repealed and shall have no further force or effect. This Resolution supersedes all prior resolutions of the City to the extent that such resolutions established guidelines for the submission and tabulation of protests in connection with rate hearings conducted by the City pursuant to Article XIID, Section 6 of the California Constitution.

IT IS, THEREFORE, RESOLVED by the City Council that when notice of a public hearing with respect to the adoption or increase of Fees has been given by the City pursuant to Article XIID, Section 6(a) of the California Constitution, the following shall apply:

SECTION 1: Definitions.

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines.

- A. “Parcel” means a County Assessor’s parcel the owner or occupant of which is subject to the proposed charge that is the subject of the hearing.
- B. “Record customer” and “customer of record” mean the person or persons whose name or names appear on the City records as the person who has contracted for, or is obligated to pay for, utility services to a particular utility account.
- C. “Record owner” or “parcel owner” means the person or persons whose name or names appear on the County Assessor’s latest equalized assessment roll as the owner of a parcel.
- D. A “fee protest proceeding” is not an election, but the City Clerk will maintain the confidentiality of protests as provided below and will maintain the security and integrity of protests at all times.

SECTION 2: Notice Delivery.

Notice of proposed Fees and public hearing shall be as follows:

- A. The City shall give notice of proposed Fees via U.S. mail to all record owners and customers of record served by the City.
- B. The City will post the notice of proposed Fees and public hearing at its official posting sites.

SECTION 3: SECTION 3: Protest Submittal.

- A. Any record owner or customer of record who is subject to the proposed fee that is the subject of the hearing may submit a written protest to the City Clerk, by:
 - (i) Delivery to the City Clerk's Office at the City Hall 1 San Antonio Road, Los Altos, CA, 94022 during published business hours
 - (ii) Mail to City Clerk at City Hall 1 San Antonio Road, Los Altos, CA, 94022, or
 - (iii) Personally submitting the protest at the public hearing.
- B. Protests must be received by the end of the public hearing, including those mailed to the City. No late postmarks will be accepted; therefore, any protest not physically received by the close of the hearing, whether or not mailed prior to the hearing, shall not be counted.
- C. Because an original signature is required, emailed, faxed and photocopied protests shall not be counted.
- D. Although oral comments at the public hearing will not qualify as a formal protest, unless accompanied by a written protest, the City Council; welcomes input from the community during the public hearing on the proposed Fees.

SECTION 4: SECTION 4: Protest Requirements.

- A. A written protest must include:
 - (i) A statement that it is a protest against the proposed Fee that is the subject of the hearing.
 - (ii) Name of the record owner or customer of record who is submitting the protest;
 - (iii) Identification of assessor's parcel number, street address, or utility account number of the parcel with respect to which the protest is made;
 - (iv) Original signature and legibly printed name of the record owner or customer of record who is submitting the protest.
- B. Protests shall not be counted if any of the required elements (i thru iv) outlined in the preceding subsection "A." are omitted.

SECTION 5: Protest Withdrawal.

Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the record owner or customer of record who submitted both the protest and the request that it be withdrawn.

SECTION 6: Multiple Record Owners or Customers of Record.

- A. Each record owner or customer of record of a parcel served by the City may submit a protest. This includes instances where:
 - (i) A parcel is owned by more than one record owner or more than one name appears on the City’s records as the customer of record for a parcel, or
 - (ii) A customer of record is not the record owner, or
 - (iii) A parcel includes more than one record customer, or
 - (iv) Multiple parcels are served via a single utility account, as master-metered multiple family residential units.

- B. Only one protest will be counted per parcel as provided by Government Code Section 53755(b).

SECTION 7: Transparency, Confidentiality, and Disclosure.

- A. To ensure transparency and accountability in the fee protest tabulation while protecting the privacy rights of record owners and customers of record, protests will be maintained in confidence until tabulation begins following the public hearing.

- B. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law and will be maintained in City files for two years.

SECTION 8: City Clerk.

The City Clerk shall not accept as valid any protest if he or she determines that any of the following is true:

- A. The protest does not state its opposition to the proposed Fees.

- B. The protest does not name the record owner or record customer of the parcel identified in the protest as of the date of the public hearing.

- C. The protest does not identify a parcel served by the City that is subject to the proposed charge.

- D. The protest does not bear an original signature of the named record owner of, or record customer with respect to, the parcel identified on the protest. Whether a

signature is valid shall be entrusted to the reasonable judgment of the City Clerk, who may consult signatures on file with the County Elections Official.

- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a record owner or a customer of record to protest the Fees.
- F. The protest was not received by the City Clerk before the close of the public hearing on the proposed Fees.
- G. A request to withdraw the protest was received prior to the close of the public hearing on the proposed Fees.

SECTION 9: City Clerk's Decisions Final.

The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

SECTION 10: Majority Protest.

- A. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of, or customers of record with respect to, a majority (50% plus one) of the parcels subject to the proposed Fee.
- B. While the City may inform the public of the number of parcels served by the City when a notice of proposed rates is mailed, the number of parcels with active customer accounts served by the City on the date of the hearing shall control in determining whether a majority protest exists.

SECTION 11: Tabulation of Protests.

At the conclusion of the public hearing, the City Clerk shall tabulate all protests received, including those received during the public hearing, and shall report the result to the City Council. If the number of protests received is insufficient to constitute a majority protest, the City Clerk may determine the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination.

Further, if the number of protests received is obviously substantially fewer than the number required to constitute a majority protest, the City Clerk may determine the absence of a majority protest without opening the envelopes in which protests are returned.

SECTION 12: Report of Tabulation.

If at the conclusion of the public hearing, the City Clerk determines that he or she will require additional time to tabulate the protests, he or she shall so advise the City Council, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the City Council shall declare the time and place of tabulation, which shall be conducted in a place where interested members of the public may observe the tabulation,

and the City Council shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the City Clerk.

SECTION 13: This Resolution will become effective immediately upon adoption.

ADOPTED by the City Council of the City of Los Altos, California at a regular meeting on the 9th day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

PRESENT:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, CITY CLERK