

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OCEANSIDE ESTABLISHING A PROCEDURE FOR
RATEPAYER OBJECTIONS TO PROPOSED WATER/
SEWER FEES

WHEREAS, the City of Oceanside, through its Water Utilities Department, provides water and wastewater services to residents and commercial customers via an extensive system of treatment plants, pump stations, lift stations, and distribution and collections pipelines and appurtenances; and

WHEREAS, California law requires that certain changes to water/sewer fees must be adopted or approved in accordance with procedures outlined in Article XIII D of the California Constitution, commonly referred to as "Proposition 218"; and

WHEREAS, Article XIII D, Section 6, establishes certain procedural requirements and substantive limitations a local public agency must follow to adopt a property related fee for water or sewer service; and

WHEREAS, The purpose of this ordinance is to provide a meaningful opportunity for a ratepayer to present an objection to a proposed new or amended water or sewer fee before resorting to litigation after the new or amended fee is approved; and

WHEREAS, This ordinance is intended to provide a procedure for ratepayers to bring an objection regarding a new or amended water or sewer fee to the City's attention early in the fee consideration process, and to provide an opportunity for the City to address or resolve any objections before the City Council makes a final decision on whether to adopt a proposed water or sewer fee pursuant to Proposition 218; and

WHEREAS, This procedure will generally require the City to make available the proposed water/sewer fee, post the written basis for the proposed water/sewer fee on its internet website, provide 45 days for a property owner to review the proposed fee and timely submit to the City a written objection to the fee that specifies the grounds for

AN ORDINANCE OF THE CITY OF OCEANSIDE ESTABLISHING A PROCEDURE FOR RATEPAYER
OBJECTIONS TO PROPOSED WATER/SEWER FEES

1 alleging noncompliance, and require the City to consider and respond in writing timely
2 submitted objections prior to the close of the protest hearing or ballot tabulation hearing
3 required under Section 6 of Article XIII D of the California Constitution; and

4 WHEREAS, For purposes of the proposed water/sewer fees adopted by the City
5 pursuant to Section 6 of Article XIII D of the California Constitution, a person or entity
6 shall be prohibited from bringing a judicial action or proceeding alleging noncompliance
7 with Article XIII D of the California Constitution for any new, increased, or extended
8 water/sewer fee, unless that person or entity has timely submitted to the City a written
9 objection to that fee or assessment that specifies the grounds for alleging noncompliance;
10 and

11 WHEREAS, the City Council hereby intends to adopt the exhaustion of
12 administrative remedies procedure as outlined in Government Code section 53759.1, and
13 the administrative record principles contained in Government Code section 53759.2.

14 **NOW, THEREFORE,** the City Council of the City of Oceanside does ordain as
15 follows:

16 SECTION 1. The City Council hereby adopts the exhaustion of administrative
17 remedies procedure contained in Government Code section 53759.1, subdivision (c).

18 SECTION 2. For purposes of any proposed water/sewer fee adopted by the City
19 pursuant to Section 6 of Article XIII D of the California Constitution, a person or entity
20 shall be prohibited from bringing a judicial action or proceeding alleging noncompliance
21 with Article XIII D of the California Constitution for any new, increased, or extended
22 water/sewer fee, unless that person or entity has timely submitted to the City a written
23 objection to that fee or assessment that specifies the grounds for alleging noncompliance,
24 in compliance with Government Code section 53759.1.

25 SECTION 3. The City Council hereby adopts the administrative record principles
26 contained in Government Code section 53759.2.
27

1 SECTION 4. The City Council authorizes City staff to take such other and
2 additional actions as may be reasonably necessary to implement the purpose of this
3 ordinance and implement the exhaustion of administrative remedies procedure adopted
4 herein.

5 SECTION 5. The City Clerk of the City of Oceanside is hereby directed to publish
6 this ordinance, or the title hereof as a summary, pursuant to state statute, once within
7 fifteen (15) days after its passage in the San Diego Union Tribune, North County edition,
8 a newspaper of general circulation published in the City of Oceanside.

9 SECTION 6. Severability. If any section, sentence, clause or phrase of the
10 ordinance is for any reason held to be invalid or unconstitutional by a decision of any court
11 of competent jurisdiction, such decision shall not affect the validity of the remaining
12 portions of this ordinance. The City Council hereby declares that it would have adopted
13 this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact
14 that any one or more section, subsections, sentences, clauses or phrases be declared invalid
15 or unconstitutional.

16 SECTION 7. This ordinance shall take effect and be in force on the thirtieth (30th)
17 day from and after its final passage and will apply to any proposed new or amended
18 water/sewer fees of which notice is provided pursuant to Prop. 218 and the procedures
19 specified herein.

20 ///

21 ///

22 ///

1 INTRODUCED at a regular meeting of the City Council of the City of Oceanside
2 held on the _____ day of _____, 20__, and, thereafter,

3 PASSED, AND ADOPTED by the City Council of the City of Oceanside,
4 California this _____ day of _____, 20__, by the following
5 vote:

6 AYES: _____

7 NOES: _____

8 ABSTAIN: _____

9 ABSENT: _____

10 _____
11 MAYOR, CITY OF OCEANSIDE

12 ATTEST:

13 APPROVED AS TO FORM:

14 _____
15 _____



16 CITY CLERK

17 CITY ATTORNEY
18
19
20
21
22
23
24
25
26
27
28