

Frequently Asked Questions

1. What is Proposition 218?

Proposition 218 refers to a voter initiative adopted in 1996 that establishes procedures and substantive requirements for adopting new or increasing existing fees or charges for services such as water, sewer, and solid waste. Proposition 218 added articles XIII C and XIII D to the California Constitution.

2. What are the procedural requirements in Proposition 218?

Procedurally, Proposition 218 requires that the Town hold a public hearing on the question of whether to adopt new rates for water and solid waste service, and mail notice to the record owner of property subject to the new rates at least 45 days prior to the public hearing. At the public hearing, members of the public are allowed to provide oral testimony about the proposed rates. Additionally, property owners and customers that have accounts for such services with the Town are allowed to submit protests, provided those protests are in writing, against the proposed rate increase. If written protests are submitted on behalf of a majority of the separate parcels subject to the proposed rates, the Town is prohibited from adopting the new or increased rates. Alternatively, if written protests are not submitted on behalf of a majority of parcels, the City Council may consider whether to adopt the proposed rates included in the Proposition 218 notice.

3. How is a majority protest determined?

Article XIII D, section 6(a)(2) of the California Constitution provides that a majority protest exists if written protests against the proposed fee or charge are presented by a majority of owners of parcels subject to the proposed rates. Additionally, Government Code section 53755(b) provides that only one written protest is counted for each parcel, whether the protest is filed by an owner or a tenant that has an account with the Town.

4. What are the requirements for a valid written protest?

The Town's Proposition 218 notice sets forth the requirements for a valid written protest. The purpose of these requirements is to allow the Town to ensure that each written protest received was submitted by a person authorized to submit the protest on behalf of the parcel. The reason for this is that only written protests submitted by a property owner or tenant directly liable for the payment of the proposed rates may be counted, and only one protest may be counted for each parcel. Therefore, the Town requires that each written protest:

- a. state that the identified property owner or tenant is opposed to the proposed water rate adjustments and increases or solid waste rate adjustments and increases;
- b. provide the location of the identified parcel (by street address, assessor's parcel number, or customer account number); and

- c. include the name and signature of the property owner or tenant submitting the protest.

5. How can valid written protests be delivered?

Written protests may be delivered to the City Clerk by mail or in person at 1600 Floribunda Avenue, Hillsborough, California 94010. Written protests may also be hand delivered at the public hearing, provided they are received by the City Clerk prior to the close of the public hearing.

6. Can written protests be delivered via e-mail or other electronic means?

Because the Town must be able to verify that written protests are validly submitted by a person authorized to submit a written protests, electronic submissions will not be accepted. This practice is consistent with the Town's past Proposition 218 hearings, and is common practice amongst California agencies.

7. Will oral protests or comments be counted as written protests?

No, unless the oral comment is accompanied by a written protest. This is because Proposition 218 requires that protests be submitted in writing.

8. What happens if there is no majority protest?

If there is no majority protest, after the close of the public hearing, the City Council may consider and vote on whether to adopt the proposed rate increases and adjustments.