

Utility Rate Setting Procedures

These "Utility Rate Setting Procedures" ("Procedures") describe the processes that will be followed by the Ironhouse Sanitary District ("District") in establishing any new or increased sewer rates, as summarized in the Resolution identified in the header of this Exhibit "A." The Utility Rate Setting Procedures include compliance with Proposition 218 as well as the procedures for exhausting administrative remedies under Government Code section 53759.1 (known as "AB 2257").

1. Overview of Exhaustion Procedure (AB 2257)

The District will follow the "exhaustion procedure" set forth herein, to be conducted concurrently with the Proposition 218 process, for the Board of Director's (the "Board's") consideration of any proposed new or increased sewer rates. This exhaustion procedure shall be conducted in accordance with "Proposition 218" (California Constitution Article XIII D; as it is implemented by the Legislature at Government Code sections 53750 - 53759.2; and as it has been judicially interpreted by appellate court decisions), and the particular procedures set forth in Government Code section 53759.1. The exhaustion procedure provides an opportunity for record owners to submit a "timely written objection" to identify substantive bases for asserting proposed water rates or sewer rates do not comply with Proposition 218.

NOTE that a "record owner" may be referred to in these Procedures as the "owner" or "property owner"; and a "record owner" shall include a tenant who is directly liable to pay the rates.

The processes described herein may be referred to as "these Procedures." As used in these procedures, the term "rates" may be used to refer to a proposed update to the District's sewer rates.

- a. District staff will post on its internet website a notice of the exhaustion procedure and this notice will be prominently incorporated in the Proposition 218 public hearing notice mailed to each record owner.
- b. The notice will identify the date and time by which timely written objections must be submitted to the District, and the date will be no less than 45 calendar days after the notice is mailed to the record owners
- c. District staff will review timely written objections and draft written responses providing the substantive basis for retaining or altering the proposed rates in response to the written objections. District staff will present its written responses to the Board prior to the close of the public hearing for Proposition 218 protest hearing, and the Board will review to determine whether action is needed in response to the written objections or written responses.
- d. Following the Board's review and response to timely written objections and written responses, it is within the discretion of the Board to proceed with the Proposition 218 protest hearing process, as described herein, to consider approval of the proposed rates.
- e. **Rate Challenger Must Exhaust Administrative Remedies.** No claim, suit for damages, suit for injunctive relief, petition for writ of mandamus, or administrative or judicial proceeding shall be brought against the District (including the Board, or its employees,

officers, or designees regarding a challenge to the proposed rates unless the challenging party first exhausts its administrative remedies by complying with these Procedures and submitting to the District a timely written objection.

2. Notice of Proposition 218 Public Hearing and Initiating Exhaustion Procedure (AB 2257)

Prior to approving or imposing any new or increased rates, the District will conduct a public hearing and provide prior written notice to each record owner of the hearing and the exhaustion procedure as described in these Procedures. The District Board may adopt a resolution annually to authorize placing the sewer service charges on the Contra Costa County property tax rolls for collection, in accordance with Health and Safety Code Section 5473. For any property owner who does not receive a bill from the District for payment of the annual sewer service charge on the property tax rolls, the sewer service charge shall be due and payable within thirty days of written notice of the bill from the District.

To the extent the District sends a regular billing statement for sewer service provided to a "customer" (e.g., a "tenant" or other "ratepayer") who is not the record owner, the District will also mail the written notice to the customer at the address for the billing statement. The District will mail the public hearing notice to each record owner no later than 45 days prior to the public hearing. The contents of the hearing notice will include:

- a. Compliance with Proposition 218:
 - (1) The date, time, and location of the public hearing.
 - (2) The amount of the rates imposed on each parcel.
 - (3) The basis upon which the amount of the proposed rates were calculated.
 - (4) The reason for the rates.
 - (5) The location to which owners must submit written protests via email, mail, or personal delivery.
 - (6) If required by Government Code section 54354.5, the notice will identify the opportunity for record owners to be heard as to whether the proposed rates are not in compliance with any requirements of the Revenue Bond Law of 1941 (Government Code Sections 53000 - 55821), including: (a) are discriminatory or excessive, or (b) will not be sufficient under the provisions of any outstanding revenue bonds (including Government Code section 54515).
 - (7) How members of the public may obtain additional information regarding the proposed new or increased fee, including a link to information that is available on the District's website or by requesting a mailed copy. This may include a copy of the resolution or ordinance by which the proposed new or increased rates are proposed to be adopted.
- b. Compliance with the Exhaustion Procedure for Written Objections. The District will post on its internet website the written basis for the proposed rates and a link to the Proposition 218 public hearing notice which will be supplemented with the following prominently displayed information:
 - (1) The "deadline" (date and time) by which a "timely written objection" must be submitted to the District. The deadline will be no earlier than 45 days after the District mails to property owners the notice of the public hearing.
 - (2) The location to which written objections must be submitted to the District via email,

mail, or personal delivery.

(3) All substantive requirements for submitting a written objection. The record owner must comply with the requirements set forth in Procedures section 3, below, including specifying the grounds on which the owner alleges the proposed new or increased rates does not comply with Proposition 218.

(4) Notice that: (a) any person's failure to submit a timely written objection bars any right of that person to challenge the proposed new or increased fee through a legal proceeding; and (b) there is a 120-day statute of limitations for challenging the proposed new or increased rates (in accordance with Government Code section 53759).

c. The District will mail the public hearing notice to each record owner of a parcel that is subject to payment of the new or increased fee. The notice shall be mailed to owner's address shown on the last equalized property tax assessment roll.

(1) There is a rebuttable presumption that the most recent equalized property tax assessment roll of the Contra Costa County Assessor is sufficient evidence of the record owner of each parcel. A person may rebut the presumption by providing to the District written proof of ownership.

(2) The District Secretary, or designee, may certify by affidavit the proper mailing of notices described in these Procedures, and any such affidavit shall constitute conclusive proof of mailing in the absence of fraud.

(3) Failure of any person to receive notice shall not invalidate the hearing or its results.

(4) The District will also provide supplemental notices to the address where the District customarily mails the billing statement for rates.

d. Concurrently with publishing and mailing the public hearing notice, the District will post on its website relevant information regarding the proposed new or increased fee including a copy of the cost of service analysis (which may be referred to as a "rate study") which provides documentation of compliance with all substantive requirements of Prop 218 regarding the calculation of the amount of the proposed new or increased fee.

3. Requirements for Submitting Timely Written Objections (AB 2257)

For the purpose of considering written objections, **the District will consider the term "record owner" to include tenancies of real property where tenants are directly liable to pay the rates to the District** (consistent with Proposition 218; California Constitution Article XIII D, Section 2(g)). In order for a record owner to submit a timely written objection, it must:

a. Be received by the District at the location identified on the public hearing notice, no later than the deadline identified on the public hearing notice. The deadline may be no earlier than 45 days after the District mails to record owners the notice of public hearing.

b. Be in writing (whether via mail, personal delivery, or email) (1) identifying the name of the record owner, and the street address or assessor's parcel number (or other clear identification) of the property subject to the rates; and (2) signed by the record owner. For any written objection submitted via email, the property owner's signature must appear via photograph, digital stylus pen,

or other electronic proof to the satisfaction of the District Secretary per Procedures section 6(c) below).

c. Specify the grounds for alleging the proposed rates do not comply with Proposition 218. The grounds must identify (i) the substantive requirement of Proposition 218, and (ii) the reason the proposed rates do not comply with that requirement. For any proposed new or increased "fee" for a property-related service (such as sewer rates), relevant substantive requirements of Proposition 218 include:

- (1) Revenues derived from the rates shall not exceed the funds required to provide the property related service (sewer service).
- (2) Revenues derived from the rates shall not be used for any purpose other than that for which the fee or charge was imposed.
- (3) The amount of the rates shall not exceed the proportional cost of the service attributable to the parcel.
- (4) No rates may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Rates based on potential or future use of a service are not permitted.
- (5) No rates may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

4. Requirements for Submitting Timely Written Protests (Proposition 218)

For the purpose of considering and counting written protests, **the District will consider the term "record owner" to include tenancies of real property where tenants are directly liable to pay the rates to the District** (consistent with Proposition 218; California Constitution Article XIII D, Section 2(g)).

In order for a record owner to submit a timely written protest, to be considered as a part of the Proposition 218 protest hearing described in Section 6, below, it must:

- a. Be received by the District at the location identified on the public hearing notice, no later than the close of the public testimony portion of the public hearing.
- b. Be in writing (via mail, personal delivery, or email) (1) identifying the name of the record owner, and the street address or assessor's parcel number (or other clear identification) of the property subject to the rates; and (2) signed by the record owner. For any written protest submitted via email, the property owner's signature must appear via photograph, digital stylus pen, or other electronic proof to the satisfaction of the District Board per Procedures section 4(g)(2) below).
- c. Must clearly identify that the record owner opposes the proposed new or increased rates that are the subject of the hearing.
- d. Will only be counted as one protest per parcel. That means if any one or more record owners of a parcel submits a timely written protest (or timely written objection) for the same parcel, it will be counted as one timely written protest.
- e. Record owners of multiple parcels within the District may file one protest for each parcel owned within the District's service area.

f. A record owner may withdraw a written protest only if the withdrawal is submitted in writing by the record owner clearly indicating an intent to withdraw for an identified property, and it is received by the District at the location (and no later than the time) for submitting written protests. After a written protest is withdrawn, a record owner may submit a new or replacement written protest in accordance with the requirements of these Procedures. No other modification to a timely written protest may be made.

g. The District Secretary shall take custody of all submitted written objections and written protests.

(1) In order to protect the integrity of the procedures for considering written objections and written protests as described in these Procedures, all written objections and written protests shall remain confidential until District Secretary (or designee) has determined they may be published in accordance with the criteria in paragraph 4(g)(2).

(2) Any submitted written objection and written protest shall be a public record; however, the District may withhold disclosure if the District determines that the public interest served by not disclosing clearly outweighs the public interest served by disclosure under Government Code section 7922.000. As a general rule, the District finds there is a substantial public interest in not disclosing written objections and written protests to protect the integrity of the process described herein during the time that: (A) written objections are still being submitted and (B) prior to the time that the Brown Act meeting agenda is posted (e.g., at least 72 hours before a regular meeting under Government Code section 54954.2).

5. District's Response to Timely Written Objections (AB 2257)

At the close of the written objection period, District staff shall review timely written objections (as defined in Section 3, above) and shall draft written responses to the written objections. The District's written response will include: (i) the grounds on which the objection is (or is not) resulting in amendments to the proposed new or increased rates; and (ii) an explanation of the substantive basis for retaining or altering the proposed new or increased rates.

District staff shall present the written responses to the Board at the public meeting that was specified in the public hearing notice described in Section 2, above.

a. In accordance with the Brown Act, the public will be provided an opportunity to address the Board prior to the Board's action related to the timely written objections and written responses. (See Government Code section 54954.3(a).)

b. In accordance with Government Code section 53759.1(d), the Board, in exercising its legislative discretion in considering timely written objections and written responses, shall determine for the proposed new or increased rates whether further review, clarification, or reduction is needed, and whether to proceed to the Proposition 218 protest hearing.

6. Conducting the Proposition 218 Protest Public Hearing

If the Board determines to proceed to the Proposition 218 protest public hearing for proposed new or increased rates (as previously noticed in accordance with Section 2, above), the public hearing shall be conducted consistent with the following:

a. The Board will open the public hearing and consider all evidence presented during the

hearing including the public hearing notice and all documents referenced therein (particularly including the Rate Study), all written objections (AB 2257), written responses, written protests, and any testimony, documents, or information presented during the public hearing.

b. Prior to closing the public hearing, the Board will request if there are any additional written protests, under Proposition 218, to be submitted to (or withdrawn from) the District.

c. The Board will then close the public hearing and request a report from the District Secretary to identify the number of timely written protests compared to the total number of parcels subject to the new or increased fees. The District Secretary shall seek legal advice from the District Counsel if there are any questions regarding the counting of timely written protests that meet the requirements of these Procedures.

(1) A majority protest exists only if the number of timely written protests exceeds one-half of the parcels served by the District.

(2) If the District Secretary determines that additional time is needed to tabulate timely written protests, the Board shall recess or continue the public meeting to provide sufficient time for the District Secretary to complete the tabulation.

(3) If the District Secretary determines that there is a majority protest, the City shall not impose the new or increased rates.

(4) If the District Secretary determines that there is not a majority protest, the Board shall continue its deliberations and take action on the proposed new or increased rates.

(5) The District Secretary determinations under these Procedures shall be the final determination of the District subject to appropriate judicial review. This shall include the District Secretary determinations that: (a) a written protest meets the requirements for a timely written protest in accordance with these Procedures; or (b) a majority protest has (or has not) been submitted for the proposed rates.