

## ATTACHMENT A

### RESOLUTION NO. 2025- 49

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING A PROCEDURE TO CHALLENGE PROPERTY RELATED FEES, CHARGES AND ASSESSMENTS IN ACCORDANCE WITH ASSEMBLY BILL NO. 2257**

**WHEREAS**, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

**WHEREAS**, the Proposition 218 Omnibus Implementation Act added California Constitution Articles XIII C and XIII D in 1996 ("Proposition 218") and made numerous changes to local government finance law including significantly changing the rules and requirements for adopting property related fees;

**WHEREAS**, Proposition 218, requires local governments to follow specific procedures before imposing or increasing property-related fees and charges;

**WHEREAS**, in recent years, California courts have increasingly emphasized the importance of exhausting local administrative remedies before pursuing litigation related to such fees because a legal challenge can be brought years after a fee is adopted and implemented, raising concerns about fairness and administrative efficiency;

**WHEREAS**, to address these concerns, the California Legislature adopted Assembly Bill No. 2257 ("AB 2257"), which added Sections 53759.1 and 53759.2 to the California Government Code, authorizing local agencies to adopt administrative procedures that require potential plaintiffs to first exhaust administrative remedies before initiating litigation challenging the validity of property-related water or sewer fees or charges under Proposition 218;

**WHEREAS**, to implement AB 2257, the City must adopt a resolution setting forth the administrative procedures required by law; and

**WHEREAS**, this resolution integrates AB 2257's exhaustion of administrative remedies requirement into this existing 45-day public review process.

**NOW, THEREFORE,** the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The City Council does hereby adopt the procedures, attached hereto as Exhibit A, which are incorporated herein by reference, requiring exhaustion of administrative remedies related to property related fees, charges and assessments.

**Section 2:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 3:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 4:** The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This action simply establishes the procedure to protest fees, charges, and assessments adopted by the City, therefore, will not result is not a project, nor will it result in any physical change to the environment.

**Section 5:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

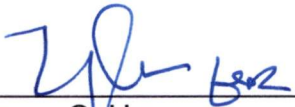
**ADOPTED** this 22nd day of July, 2025.

\_\_\_\_\_  
Joe Stapleton  
Mayor

**ATTEST:**

\_\_\_\_\_  
Molly Perry  
Interim City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

Attachment(s): Exhibit A – Procedure to Protest Property Related Fees, Charges and Assessments

## **Exhibit "A"**

### **Procedure to Protest Property Related Fees, Charges and Assessments**

- A. Scope. The duty to exhaust administrative remedies imposed by this section extends to:
1. Any fee or charge subject to Articles XIII C or XIII D of the California Constitution;
  2. Any assessment on real property levied by the City; and
  3. The methodology used to develop and levy such a fee, charge, or assessment.
- B. Definition. "Hearing" as used in this section means the hearing referenced in Subsection D(4).
- C. Duty to Exhaust Issues. No person may bring a judicial action or proceeding alleging noncompliance with the California Constitution or other applicable law for any new, increased, or extended fee, charge, or assessment levied by the City, unless that person submitted to the City Clerk a timely, written objection to that fee, charge, or assessment specifying the grounds for alleging noncompliance. The issues raised in any such action or proceeding shall be limited to those raised in such objection unless a court finds the issue could not have been raised in an objection by those exercising reasonable diligence.
- D. Procedures. The City shall:
1. Make available to the public any proposed fee, charge, or assessment to which this section is to apply no less than 45 days before the deadline for a ratepayer or assessed property owner to submit an objection pursuant to Subsection D(4) below.
  2. Post on its internet website a written basis for the fee, charge, or assessment, such as a cost of service analysis or an engineer's report, and include a link to the internet website in the written notice of the Hearing, including, but not limited to, a notice pursuant to subdivision (c) of Section 4 or paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution.
  3. Mail the written basis described in Subsection D(2) to a ratepayer or property owner on request.

4. Provide at least 45 days for a ratepayer or assessed property owner to review the proposed fee or assessment and to timely submit to the City Clerk a written objection to that fee, charge, or assessment that specifies the grounds for alleging noncompliance. Any objection shall be submitted before the end of the public comment portion of a Hearing on the rate, charge or assessment.
  5. Include in a written notice of the Hearing, a statement in bold-faced type of 12 points or larger that:
    - a) All written objections must be submitted to the City Clerk by the end of public comment period at the Hearing and that a failure to timely object in writing bars any right to challenge that fee, charge, or assessment in court and that any such action will be limited to issues identified in such objections.
    - b) All substantive and procedural requirements for submitting an objection to the proposed fee, charge, or assessment such as those specified for a property-related fee under California Constitution, Article XIII D, section 6(a) or for an assessment on real property under California Constitution, Article XIII D, section 4(e).
- E. Council Consideration; City Responses. Before or during the Hearing, the City Council shall consider and the City shall respond in writing to, any timely written objections. The City Council may adjourn the Hearing to another date if necessary to respond to comments received after the agenda is posted for the meeting at which the Hearing occurs. The City's responses shall explain the substantive basis for retaining or altering the proposed fee, charge, or assessment in response to written objections, including any reasons to reject requested amendments.
- F. City Council Determinations. The City Council, in exercising its legislative discretion, shall determine whether:
1. The written objections and the City's response warrant clarifications to the proposed fee, charge, or assessment;
  2. To reduce the proposed fee, charge or assessment;
  3. To further review the proposed fee, charge, or assessment before determining whether clarification or reduction is needed; and
  4. To proceed with the Hearing, to continue it, or to abandon the proposal.