



BEAR VALLEY COMMUNITY SERVICES DISTRICT

PROCEDURES FOR THE CONDUCT OF PROTEST HEARINGS FOR PROPOSED NEW OR INCREASED PROPERTY RELATED FEES AND CHARGES

The following procedures (“**Procedures**”) apply to District proceedings required by Article XIIIID of the California Constitution with respect to enacting new or increasing existing property related fees or charges where no specific procedures are imposed by Article XIIIID or the Proposition 218 Omnibus Implementation Act (Government Code section 53750 and following) (collectively, “**Proposition 218**”).

A. Definitions.

1. **District Secretary,**” refers to the Secretary of the Board of Directors and includes any person designated by the Secretary or the Board.
2. **Fee**” or “**charge**” means a fee or charge, including rates, for a property-related service subject to the requirements of Proposition 218.
3. “**Property owner**” means the owner of record or representative of the owner that is eligible to file a protest in accordance with Section D of these Procedures.
4. “**Public hearing**” means the noticed public hearing at which protests will be received.

B. Creation of Master List.

1. The District Secretary will prepare and maintain a written list (“**Master List**”) of all parcels to which the proposed new or increased fee or charge is to apply, and the property owner of such parcel that is eligible to file a protest in accordance with Section D of these Procedures.

C. Notice of New or Increased Fees.

1. The notice of the public hearing required by Proposition 218 will be sent by first class mail at least 45 days prior to the date set for the public hearing on the proposed new or increased fee or charge to the record owner(s) of each parcel to which the new or increased fee or charge is proposed to apply.
2. The record owner(s) of each parcel to which the new or increased fee or charge is proposed to apply will be determined from the last equalized

secured property tax assessment roll of Kern County; however, the District may use more recent ownership information obtained from the Kern County Assessor-Recorder than the last assessment roll. If the property tax roll indicates more than one owner, each owner will receive notice at the address indicated on the property tax roll. Only record owners will receive mailed notice.

3. The District Secretary may certify the proper mailing of notices by affidavit, which will constitute conclusive proof of mailing.
4. The failure of any property owner to receive notice will not invalidate the proceedings.
5. The District Secretary may post a copy of the notice on the District's website.

D. Determining Eligibility to File a Protest.

1. The record owner(s) of parcels subject to the proposed new or increased fee or charge are entitled to a single protest for each parcel. The last assessment roll of the Kern County Assessor-Recorder is presumptive evidence of ownership of a parcel for protest purposes; however, the District may use more recent ownership information obtained from the Assessor-Recorder than the last assessment roll.
2. When a parcel is held as community property, or in joint tenancy, or as a tenancy in common, or by a trust, any spouse or domestic partner, joint tenant, or tenant in common, or trustee is presumed to have authority to file a protest on behalf of such parcel.
3. If the owners of a parcel desire to designate a particular owner as the person authorized to file a protest for such parcel, they may file with the District Secretary, at any time prior to the commencement of the public hearing a written authorization of such designation, signed by all the owners of record, and acknowledged by a notary in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the Kern County Assessor-Recorder's Office.
4. Executors, administrators, and guardians of a parcel may file the protest for such parcel provided their representation is shown on the latest assessment roll as paying taxes and assessments on behalf of the property owner(s). If such representatives are not shown on the latest assessment roll, the representatives may file with the District Secretary, at any time prior to the commencement of the public hearing certified copies of the written documentation establishing such legal representation.

5. The protest of any corporation, partnership or association may be signed by any person authorized to do so in writing by the board of directors, trustees, or any other manager or managing body of the entity.
6. If the owners of a parcel desire to designate a tenant who is directly liable to pay the fee or charge as the person authorized to file a protest for such parcel, they may file with the District Secretary, at any time prior to the commencement of the public hearing, a written authorization of such designation, signed by all the owners of record, and acknowledged by a notary in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the Kern County Assessor-Recorder's Office.
7. In any situation where the documentation provided to the District Secretary in accordance with this Section D is ambiguous or unclear, the District's General Counsel may determine whether the documentation is adequate for the purpose provided.

E. Conduct of the Public Hearing, Submission, and Tabulation of Protests.

1. A property owner may submit a written protest against the proposed new or increased fee or charge to the Board Secretary either by mail or personal delivery to the District office or by submitting the protest at the public hearing. Protests must be received by the end of the public hearing. No postmarks will be accepted. Email, facsimile or other protests sent by a means of electronic communication will not be accepted.
2. Each protest must: (a) identify the affected parcel (by tract and lot number or street address), (b) state that the signer opposes the new or increased fee or charge, and (c) include the original signature of the property owner.
3. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the District welcomes input from the community during the public hearing on the proposed new or increased fee or charge.
4. Any person who submits a protest may withdraw it by submitting to the District Secretary a written request that the protest be withdrawn. The withdrawal of a protest must contain sufficient information to identify the affected parcel and the name of the property owner who submitted both the protest and the request that it be withdrawn.
5. The District Secretary will take custody of and endorse on each written protest the time and date it is filed with the District Secretary. All written protests will remain confidential until after the close of the public hearing after which they will constitute disclosable public records.

6. The District Secretary will determine the validity of all protests. A protest will not be accepted if it is determined that any of the following conditions exist:
 - (a) The protest does not identify a parcel served by the District.
 - (b) The protest does not bear an original signature of a property owner of the parcel identified on the protest.
 - (c) The protest does not state its opposition to the proposed new or increased fee or charge.
 - (d) The protest was not received by the District Secretary before the close of the public hearing on the proposed new or increased fee or charge.
 - (e) A request to withdraw the protest is received prior to the close of the public hearing on the proposed new or increased fee or charge.
7. The decision of the District Secretary that a protest is not valid will constitute a final action of the District and will not be subject to any internal administrative appeal.
8. The District Secretary will begin tabulating written protests immediately following the close of the public hearing. The General Manager may retain a private firm with demonstrated experience in tabulating written protests to assist the District Secretary.
9. At the conclusion of the public hearing, the District Secretary will complete the tabulation of all protests received, including those received during the public hearing, and will report the results of the tabulation to the Board.
10. If review of the protests received demonstrates that the number received is clearly less than one-half of the parcels served by the District with respect to the proposed new or increased property related fee or charge that is the subject of the protest, then the District Secretary may advise the Board of the absence of a majority protest without determining the validity of all protests.
11. A majority protest exists if written protests are timely submitted and not withdrawn by the property owners of a majority (50% plus one) of the parcels subject to the proposed new or increased fee or charge.
12. If the Board determines after the close of the public hearing that written protests have been received from property owners representing a majority of the parcels subject to the proposed new or increased fee or charge, the President will declare the proceedings closed, and the proposed new or increased fee or charge will not be approved.

13. If the Board determines after the close of the public hearing that written protests have not been received from property owners representing a majority of the parcels subject to the proposed new or increased fee or charge, the Board may adopt a resolution or ordinance approving such new or increased fee or charge.