

RESOLUTION NO. 2021 – 4

RESOLUTION INITIATING PROCEEDINGS TO ESTABLISH A REVISED STORM DRAINAGE AND FLOOD PROTECTION FEE

WHEREAS, Health & Safety Code Section 5471 authorizes the City Council to establish fees for services and facilities furnished by the City in connection with its storm drainage system; and

WHEREAS, the City's storm drainage system is designed to accept runoff from developed parcels and discharge that runoff in a safe and controlled manner that reduces flooding; and

WHEREAS, the City's storm drainage system is aging and, without substantial increased maintenance and the replacement of pipes and other system elements, faces an increased risk of pipe failures; and

WHEREAS, staff recommends that the bulk of the current system be replaced over a 10-15 year period; and

WHEREAS, the cost of these replacements is estimated to be \$22.9 Million; and

WHEREAS, the community's health, safety, and well-being would be well served by implementing system improvements to accommodate a 25-year storm event as outlined in the 2014 Storm Master Plan prepared by GHD Engineering; and

WHEREAS, another \$31 Million in improvements is estimated to be necessary for capacity improvements to accommodate a 25-year storm event; and

WHEREAS, the storm drainage system must comply with water quality regulations that protect the long-term health and safety of San Bruno Channel and San Francisco Bay; and

WHEREAS, the City's current stormwater fee which has been in place since 1994 is insufficient to fund the costs of these improvements and the maintenance and operation of the system; and

WHEREAS, the City has engaged Willdan, a consultant, to develop and recommend a new, annual stormwater fee that would replace the existing fee and would support repairs and upgrades that mitigate local flooding and comply with environmental requirements; and

WHEREAS, the proposed fee would be collected annually on the property tax roll; and

WHEREAS, the rate structure of the proposed fee has been designed so that each parcel of real property pays a fee that is proportional to that parcel's contribution of stormwater to the drainage system; and

WHEREAS, without the fee, the General Fund, already under fiscal stress, would need to continue to provide required funding; and

WHEREAS, continued General Fund subsidies endanger other key public services like public safety and street, park, and facilities maintenance; and

WHEREAS, in order to adequately fund the Stormwater system over time, it is recommended that the fee escalate annually by up to the Consumer Price Index (CPI); and

WHEREAS, Article XIII D, Section 6 of the California Constitution, a part of Proposition 218, requires that the City hold a protest hearing and an election before the City Council can impose the proposed fee; and

WHEREAS, the City Council desires to initiate proceedings to impose the proposed fee.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF SAN BRUNO, CALIFORNIA, AS FOLLOWS:

1. The foregoing recitals were reviewed are true and correct.
2. The time and place for a public hearing on the fee described in Exhibit "A", attached hereto, and incorporated herein by reference, is March 23, 2021 at 7:00 p.m., or soon thereafter, during a virtual meeting of the City Council. Details for the virtual meeting, including a Zoom link for the meeting will be published on the March 23, 2021 meeting agenda.
3. The public hearing will be conducted in the manner set forth in Article XIII D, Section 6(a) of the California Constitution. The City will accept written protests against the proposed fee in connection with the public hearing and will hear written and oral testimony from any interested person at the hearing. The City hereby adopts the guidelines set forth in Exhibit "B", attached hereto, to govern the acceptance and tabulation of written protests.
4. If the proposed fee is approved, proceeds of the fee will be available to the City only to:
 - i. construct storm drainage system improvements that provide improved flood protection, are necessary or useful for compliance with regulatory requirements and/or replace existing elements of the storm drainage system;
 - ii. maintain, service, repair, and operate the storm drainage system and periodically replace or upgrade elements thereof;
 - iii. finance associated capital costs (including debt service and incidental and administrative costs associated with financing); and
 - iv. fund administrative costs of the fee and of the storm drainage system and improvements.
5. City Staff is authorized to give notice of the public hearing as required by law.
6. The City Clerk is hereby authorized to do all things necessary and proper to implement the provisions of this Resolution, including certifying the passage and adoption of this Resolution and entering it into the book of original Resolutions.

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I hereby certify that foregoing Resolution No. 2021 - 4
was introduced and adopted by the San Bruno City Council at a regular meeting on
January 12, 2021, by the following vote:

AYES: Councilmembers: Hamilton, Mason, Salazar, M. Medina, Mayor R. Medina

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Melissa Thurman, CMC
City Clerk

Exhibit A
STORM DRAINAGE AND FLOOD PROTECTION FEE
 Rate Structure

The rate of the annual Storm Drainage and Flood Protection Fee is:

\$0.0498859 per sq. ft. of Impervious Area

The Impervious Area of a parcel is the portion of the parcel that is covered by a rooftop, a walkway, a patio, a driveway, a parking lot, a storage area, concrete or asphalt paving, gravel roads, or any other hard surface area that either prevents or retards the entry of water into the soil mantle or causes water to run off the surface in greater quantities or at an increased rate of flow.

In order to keep pace with inflation, this fee will be subject to annual adjustments based on the San Francisco Bay Area Construction Cost Index (CCI) as published by Engineering News Record (ENR).

For administrative convenience, the impervious surface of a parcel is presumed to consist of the following percentage of the total square footage of the parcel, based on the zoning of the parcel:

Zoning*	Zoning Definition**	Estimated PIF***
R-1	Single-Family Residential	60%
R-2	Low Density Residential	70%
R-3	Medium Density Residential	85%
R-4	High Density Residential	85%
C	General Commercial	90%
C-B-D	Central Business District	95%
C-M	Commercial Manufacturing	95%
C-N	Neighborhood Commercial	95%
C-O	Community Office	90%
A-R	Administrative and Research	90%
M-1	Industrial	95%
O	Open Space/Urban Parkland	10%
P-D	Planned Development	Varies
Undesignated	Undesignated	95%

Vacant, unimproved parcels that are still in their natural states are presumed to have no Impervious Surface Area.

The presumed Impervious Surface Area for each parcel in the P-D Zone was calculated by identifying the actual use of the parcel and using the PIF shown in the table above for that type of use. In certain cases, such as where a parcel was developed as a use other than the main use of property in their land use zone (for example a school in an open space zone) or a parcel is located in a subdivision developed in a manner that was atypical of development throughout the City for that zoning (for example a single family subdivision with very large parcels that are largely left in a natural state) the presumed Impervious Surface Area was adjusted based on actual development on the parcel or in the subdivision.

The City will establish an appeal process where a property owner may appeal the City's determination of the Impervious Surface Area of the property owner's parcel.

Exhibit B
STORM DRAINAGE AND FLOOD PROTECTION FEE
Guidelines for the Acceptance and Tabulation of Written Protests

SECTION 1: Definitions.

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines.

- A. "Parcel" means a County Assessor's parcel that is subject to the Proposed Fee.
- B. "Proposed Fee" means the proposed Storm Drainage and Flood Protection Fee
- C. "Record Owner" means the person or persons whose name or names appear on the County Assessor's last equalized assessment roll as the owner of a Parcel.
- D. "Parcel Owner" means an owner of a Parcel.
- E. "Tenant" means a tenant of a Parcel who is entitled to submit a protest pursuant to Section 53755 of the Government Code or is described in Article XIII D, Section 2(g) of the California Constitution,

SECTION 2: Notice.

- A. The City shall give notice of the public hearing the Proposed Fee via U.S. mail to the Record Owner of each Parcel at the address shown on the last equalized assessment roll.

SECTION 3: Protest Submittal.

- A. Written protests against the Proposed Fee may be submitted to the City Clerk by:
 - (i) Delivery to the Office of the City Clerk located at 567 El Camino Real, San Bruno, CA 94066 during published business hours; or
 - (ii) Mail addressed to the Office of the City Clerk at 567 El Camino Real, San Bruno, CA 94066 or
 - (iii) During the public hearing (which will be conducted remotely due to the COVID-19 emergency), protests may be deposited in the brown, metal drop box affixed to the north wall next to the Linden Avenue entrance to San Bruno City Hall, no later than the close of the public testimony portion of the public hearing.
- B. Protests, including those submitted by mail, must be received by the City Clerk no later than the close of the public testimony portion of the public hearing.
- C. The City cannot accept protests via fax or email.
- D. The City welcomes all interested persons to comment orally at the public hearing. However, unless accompanied by a written protest, oral comments at the public hearing do not qualify as a formal protest,

SECTION 4: Protest Contents.

- A. A written protest must include:
 - (i) A statement that it is a protest against the Proposed Fee.
 - (ii) The name of the parcel owner or tenant that is submitting the protest.
 - (iii) Identification of assessor's parcel number or street address of the Parcel with respect to which the protest is made.
 - (iv) The original signature and legibly printed name of the person submitting the protest (or, in the case of an owner who is a corporation or is otherwise not a natural person, the name of the owner submitting the protest, the legibly printed name and original signature of the person executing the protest on behalf of that owner, and an identification of the capacity in which that person executes the protest on behalf of the owner).
- B. Written communications that do not include all of the elements set forth in Subdivision A of this Section will be treated as written comments on the proposal and entered into the record of the public hearing, but will not be counted as formal written protests.
- C. If a protest is submitted in connection with a Parcel by a parcel owner or tenant who is not the Record Owner of the Parcel, then the person may attach evidence of ownership or tenancy to

the written protest. In connection with tabulation and verification of protests, the City reserves the right to request such evidence of ownership or tenancy from any such person. Such evidence, if requested by the City via a letter mailed prior to the announcement of the tabulation results, must be submitted to the City within ten days of the date the request is mailed in order for the protest to be valid.

D. If a protest is submitted by a parcel owner that is a corporation or that otherwise is not a natural person, the person executing the protest may attach evidence of the capacity in which he executes such protest. In connection with tabulation and verification of protests, the City reserves the right to request such evidence of such capacity from any such person. Such evidence, if requested by the City via a letter mailed prior to the announcement of the tabulation results, must be submitted to the City within ten days of the date the request is mailed in order for the protest to be valid.

SECTION 5: Protest Withdrawal.

Any person who submits a protest may withdraw it by submitting a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the person who submitted both the protest and the request that it be withdrawn.

SECTION 6: Multiple Protests.

- A. Each parcel owner or tenant may submit a protest.
- B. Only one protest will be counted per parcel as provided by Government Code Section 53755(b).

SECTION 7: Transparency, Confidentiality, and Disclosure.

- A. Once a protest is opened, it becomes a disclosable public record, as required by state law and will be maintained in City files for two (2) years.
- B. The City Clerk, or his or her designee, may commence the opening and tabulation of protests prior to public hearing.

SECTION 8: Determination of Validity.

The City Clerk, or his or her designee, shall not accept as valid any protest if he or she determines that any of the following is true:

- A. The protest does not state its opposition to the Proposed Fee.
- B. The protest does not identify a Parcel that would be subject to the Proposed Fee.
- C. The protest does not name of the person who is submitting the protest and who is a parcel owner or tenant of the Parcel for which the protest has been submitted
- D. The protest does not bear an original signature of the person submitting the protest. Whether a signature is valid shall be entrusted to the reasonable judgement of the City Clerk, or his or her designee.
- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a parcel owner or tenant to protest the Proposed Fee
- F. The protest was not received by the City Clerk before the close of the public input portion of the public hearing on the Proposed Fee.
- G. A request to withdraw the protest was received prior to the close of the public input portion of the public hearing on the Proposed Fee.

SECTION 9: City Clerk's Decisions Final.

The City Clerk's decision, or that of his or her designee, that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

SECTION 10: Majority Protest.

A majority protest exists if written protests are timely submitted and not withdrawn with respect to, a majority (50% plus one) of the parcels subject to the Proposed Fee.

SECTION 11: Tabulation of Protests.

At the conclusion of the public hearing, the City Clerk, or his or her designee, shall tabulate all protests received, including those received during the public hearing, and shall report the result to the City Council. If the number of protests received is insufficient to constitute a majority protest, the City Clerk, or his or her designee, may determine the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination.

SECTION 12: Report of Tabulation.

If at the conclusion of the public hearing, the City Clerk, or his or her designee, determines that he or she will require additional time to tabulate the protests, he or she shall so advise the City Council, which may adjourn the meeting to allow the results of the tabulation to be completed on another day or days.

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I hereby certify that foregoing **Resolution No. 2021 -**
was introduced and adopted by the San Bruno City Council at a regular meeting on
, 2021, by the following vote:

AYES: Councilmembers: Hamilton, Mason, Salazar, M. Medina, Mayor R. Medina

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Melissa Thurman, CMC
City Clerk