



Town of Moraga

FREQUENTLY ASKED QUESTIONS Moraga Stormwater Fee Measure Ballot Procedure

1) What is the Stormwater Fee Measure?

The Moraga Stormwater Fee Measure is a mailed ballot measure for property owners that, if approved, will fund needed repairs and improvements to the Town's storm drainage system and efforts to ensure that storm runoff meets strict State and Federal clean water standards to protect East Bay drinking water sources.

2) How will the revenues from the Stormwater Fee be spent?

If successful, the Stormwater Fee revenues would be used to improve, upgrade and maintain the Storm Drain System by:

- Addressing deteriorating pipes, infrastructure, and sinkholes
- Protecting drinking water sources from pollutants; and
- Preventing local flooding due to insufficient capacity or condition.

3) Why did I receive a ballot?

The ballot property owners received is their opportunity to vote on the proposed Moraga Stormwater Fee. Please review the notice included with the ballot for more information on this measure.

4) Why is this being decided by mailed ballot?

This mailed ballot proceeding is being conducted according to the requirements established by Proposition 218. A ballot and ballot guide have been mailed to all record property owners that would be required to pay the proposed Stormwater Fee. This mailed ballot proceeding gives each parcel in the Town the opportunity to vote on this proposed Fee.

5) How much is the proposed Stormwater Fee?

The proposed Fee for your property for Fiscal Year 2018/19 is printed on your Official Ballot. The Fee rates by property type are set forth on the Official Ballot Information Guide. If approved, the Stormwater Fee will range from \$67.59 to \$150.31 per single-family home and would raise approximately \$787,100 for Fiscal Year 2018/19.

6) Will any of this money go to the County or State to be used for other purposes?

No. All money collected from the proposed Stormwater Fee Measure must be used for approved Storm Drain System activities in the Town of Moraga.

7) Why is this new Measure needed?

Since the incorporation of the Town in 1974, there have not been any dedicated revenues for maintaining and improving the Town's Storm Drain System. As the storm drain system has aged, problems with deteriorating pipes have arisen and have typically been addressed only when a major sinkhole forms, which has cost the Town many times more than if the same problems had been addressed before a catastrophic infrastructure failure. The proposed Fee would fund the high priority storm drainage improvement projects, provide for an annual maintenance program to find and address issues before they

become catastrophic, and fund efforts to ensure that the Town's storm runoff meets strict State and Federal standards so that East Bay drinking water supplies are protected from pollution.

8) Are there any exemptions from the Stormwater Fee?

Under state law, schools and other public entities are not exempt from stormwater fees and the fees must be proportioned so that the public entities are allocated their fair share. As such, under the Stormwater Fee measure, schools and other public entities must pay their proportional share of the stormwater costs just like they pay their water, sewer and garbage bills.

9) How would the funds be spent? What are the public accountability and fiscal controls?

The Stormwater Fee Measure includes strong fiscal safeguards and multiple layers of accountability to ensure that all the funds are used only for Storm Drainage services. Steps to assure accountability and fiscal control include:

- The proceeds from the Stormwater Fees will be placed into a special restricted Stormwater Fee Fund and cannot be used for any other Town services.
- Each year the Town Council must review the fiscal status and needs of the Storm Drain System to set the Fee levels for the following year
- The funds from this measure will be locally controlled and cannot be taken by the State or any other agency
- The funds will be subject to independent annual audits and citizen oversight

10) When will results of the ballot proceeding be known?

Tabulation of the returned ballots will commence the day after the ballots are due: May 16, 2018 at 9:00 am in the Walnut Conference Room in Town Hall. The tabulation will be continued to the next day until completed. The tabulation is open to the public. The Town Council will then have to certify the results, and, if approved by property owners, enact the Stormwater Fee Ordinance. That is expected to take place on May 23, 2018.

11) How do I return my ballot?

To be tabulated, your official ballot must be signed, marked "Yes" or "No," and received by the Town Clerk (Ballot Tabulator) before 5:00 pm on May 15, 2018.

12) How do I complete my ballot?

Please follow these steps to complete the ballot:

1. Verify that the owner name, addresses, and parcel number(s) listed on the ballot are correct. If they are not correct, please telephone the Town of Moraga at (925) 888-7026.
2. Mark or completely fill in the oval next to the word "YES" or "NO" to approve or disapprove of the proposed Fee. You may use a pencil or pen. Be sure to fill in only one oval, otherwise, your ballot may be disqualified.
3. Sign and date the ballot. After making your vote, simply FOLD the ballot so that your vote is on the inside of the fold. Then place the ballot in the return envelope provided and seal the envelope. No postage is necessary.

13) How can I return my ballot?

You may return your ballot in either of the following ways:

1. Mail it to the address shown in the enclosed, postage-paid return envelope so it is received on or before May 15, 2018.

2. Deliver it in person by May 15, 2018 before 5:00 pm to the Moraga Town Clerk, at 329 Rheem Blvd., Moraga, CA.

14) What is the deadline for returning my ballot?

To be counted, ballots must be received before the close of business (5:00 pm) on Tuesday, May 15, 2018. This deadline applies regardless of whether the ballot is mailed or hand-delivered.

15) If my ballot has a May 15 postmark, will it be counted?

No. The ballot must be received before 5:00 pm on Tuesday, May 15, 2018.

16) Can I hand deliver my ballot before May 15?

Yes. Ballots may be hand-delivered to the Moraga Town Clerk, at 329 Rheem Blvd., Moraga, CA 94556, during normal business hours through May 15, 2018.

17) Why must I sign the ballot?

State law requires that the ballot include the name of the person voting, and Proposition 218 authorizes the Town to adopt procedures for conducting the election that are similar to those for assessments. Since state law requires assessment ballots to be signed by the voter, the Town adopted procedures that specifically state that in order to count, all Fee ballots must be completed and signed by the record property owner of the parcel(s) identified on the ballot or by the owner's authorized representative and must be received by the Ballot Tabulator before the designated time. Unsigned ballots cannot be counted.

18) Who can sign the ballot?

1. If the property is owned by an individual, the individual may sign.
2. If a property is owned by a husband and wife, either may sign for both.
3. If two or more persons own the property as joint tenants or tenants in common, any co-owner may sign for all.
4. If the property is owned by a corporation, the ballot may be signed by any corporate officer. It also may be signed by any other person authorized by a resolution or minutes of the corporation's board of directors or the corporation's bylaws.
5. If the property is owned by a partnership, the ballot may be signed by any partner authorized by law. For a general partnership or limited partnership, any general partner may sign.
6. If the property is owned by a public agency, the ballot may be signed by the chair, mayor or other head of the governing body. It may also be signed by any other person authorized by a resolution, board order, or minutes of the governing body, or by a person authorized by law to make contracts for the agency.
7. If a property is owned by another legal entity, such as a trust or limited liability company, the ballot may be signed by any person authorized by law to make contracts for the entity.

19) I own several properties. Why did I receive only one ballot?

Ballots can list up to 14 parcel numbers. Property owners that own more than one piece of property with the same mailing address in the Town will receive one ballot with up to 14 of their properties listed on the ballot as well as the proposed Fee for each property. When you cast your ballot, you are casting a vote for each of the properties listed on the ballot.

20) Are returned ballots a public record?

State law specifies that the ballots become public records after they are opened for tabulation on May 16, 2018.

21) Replacement Ballots

If you make a mistake in completing your ballot or wish to change or withdraw your ballot, please submit a request by mail to the Town of Moraga, 329 Rheem Boulevard, Moraga, CA 94556; or in person at the same address; or by calling (925) 888-7026 or by email to publicworks@moraga.ca.us . To receive a replacement ballot, you must provide the following information:

- Property Owner Name
- Phone Number
- Parcel Number
- Mailing Address
- Need For Replacement Ballot
- Date Of Request

22) Address change

Replacement Ballots will only be mailed to the official address on file with the County. If you would like the ballot to be mailed to a different address or if you are a new owner that does not appear on the County's ownership records, you will need to submit evidence of ownership and mailing address. Following are acceptable forms of documentation:

- Property Deed
- Title Report
- Settlement Statement (HUD)

23) Lost ballot

If you lost your ballot, a Replacement Ballot will be sent to you if you request one. Ballots will only be sent to the name and address that appears on the Contra Costa County property tax roll. If the mailing address on the property roll is not your current mailing address, you must provide proof of ownership and a current mailing address for a ballot to be sent to that new address. Following are acceptable forms of documentation:

- Property Deed
- Title Report
- Settlement Statement (HUD)

24) Property owners who own more than one property on their ballot

Ballots can list up to 14 parcels owned by one property owner. Property owners who own more than one property may request a Replacement Ballot be mailed to them including all properties they own. They must provide acceptable documentation for all properties they own. Following are acceptable forms of documentation:

- Property Deed
- Title Report
- Settlement Statement (HUD)

25) Property owners who own multiple parcels and have one parcel that they no longer own on their ballot

Property owners who own more than one property may have a parcel they recently sold on their ballot. Such property owners may request a Replacement Ballot be mailed to them including only properties they currently own.

26) Misspelled name – or previous owner name on ballot

Property owners may have the incorrect spelling of their name or previous owner's name on their ballot. **If the spelling is incorrect, the property owner can still vote on their ballot.** However, they may wish to

contact the County Assessor to correct their name. If the property owner who received the ballot is the current owner but the ballot still lists the previous owner, the current owner can sign the ballot, because **ballots can be signed by the current property owner, or the owner's authorized representative**, under penalty of perjury. This would include a new homeowner, spouse or successor to someone who has passed away, or family member/other acting with the permission/authorization of the record owner.

27) What if a parcel has multiple owners? May the owners vote separately?

No. Only one ballot per parcel will be accepted. The owners must resolve amongst themselves how that ballot is to be cast.

28) May I withdraw my ballot after it is submitted?

Yes. The person who signed and submitted a ballot may withdraw the ballot by submitting a written request to the Moraga Town Clerk, at 329 Rheem Blvd., Moraga, CA 94556, by mail or in person; or by calling (925) 888-7022. Any such request for the withdrawal of a ballot must be received before 5:00 pm, May 15, 2018.

29) How was the Fee determined?

The method used for apportioning the Stormwater Fee is based upon the proportional amount of stormwater runoff produced by the properties in the Fee area, which is calculated by determining the amount of impervious surface on the parcel. Residential properties were grouped into four size categories having similar proportionate amounts of impervious surfaces and are charged a flat rate per parcel. Non-residential parcels were grouped into six categories based on similar imperviousness characteristics and are charged by the acre.

The Stormwater Fee Report describing the proposed Storm Drain System improvements and services, the method of calculating the Fee, the Storm Drain System budget, and the proposed Fee for each parcel is available on the Town's website at Stormwater Fee Report or by calling the Town of Moraga, Public Works Department at (925) 888-7026.

30) Why is the Town submitting the Stormwater Fee Measure to property owners for their approval?

Article XIII D, Section 6 of the California Constitution (Proposition 218) requires all property-related fees, except fees for sewer, water and refuse collection services, to be approved by a majority vote of the property owners of the properties subject to the fee. In 1999, the California Court of Appeal held that fees for stormwater services were not fees for water, sewer, or refuse collection under the Constitution, and therefore, stormwater fees could not be imposed without approval of the property owners subject to the fee. (*Howard Jarvis Taxpayers Assoc. v. City of Salinas* (2002) 98 Cal.App.4th 1351.)

In October 2017, SB 231 was signed into law, which expanded the definition of sewer services to include storm drainage in an apparent effort to exempt stormwater fees from Proposition 218's voter approval requirements. However, legislation, like SB 231, cannot amend the Constitution, and a California Court of Appeal has already determined that the Constitution requires voter approval of stormwater fees. As such, to comply with the Constitution and current case law, the Town chose to submit the Stormwater Fee Measure to the property owners for their approval.