

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: August 23, 2022	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Board of Supervisors APPROVING PARTY: Heather Foster, Clerk of the Board PHONE NUMBER: 530-289-3295
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AGENDA ITEM: Conduct public hearing on question of imposing solid waste fees for 2022/2023 as set forth in Resolution 2022-079 and adoption of resolution certifying the results of the Proposition 218 protest proceedings regarding solid waste fees.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION:

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken</p>	<p><input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____</p>	<p>Resolution 2022- _____ Agreement 2022- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus</p>
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COMMENTS:

CLERK TO THE BOARD _____
DATE

**BOARD OF SUPERVISORS
COUNTY OF SIERRA
STATE OF CALIFORNIA**

Resolution No. 2022 -

**A Resolution Certifying the Results of the Proposition 218
Protest Proceedings Regarding County Solid Waste Fees**

WHEREAS, pursuant to the provisions of California law, including without limitation Government Code Sections 25820 et seq., and Chapter 8.05 of the Sierra County Code, the Board of Supervisors adopted Resolution No. 2022-079, imposing solid waste user fees to be imposed on real property, businesses and persons who benefit from the use or ability to use the County's solid waste system, the revenue from which is used for the acquisition, operation, and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation, and disposal services, where those services are provided; and

WHEREAS, the fees provided for in Resolution No. 2022-079, are conditioned on the County's compliance with procedures required under Section 6 of Article XIII D of the California Constitution; and

WHEREAS, notice of the fees, the method of calculation of the fees, the property owners' right to protest the levy of the fees and the procedures to be followed to submit a protest, along with the time and place for the hearing on the proposed fees and the protests have been mailed to the record owner of each of the properties to be assessed the solid waste fee in accordance with the requirements of Section 6 of Article XIII D; and

WHEREAS, on August 2 , 2022, a public hearing was held by the Board of Supervisors on the question of the imposition of the proposed fees, at which time the Board called for submission of any further protests pertaining to said fees; and

WHEREAS, at the conclusion of said hearing the Board counted the protests lawfully submitted in opposition to the proposed fees and has determined that there are _____ written protests from the owners of the properties that are subject to payment of the proposed fees that have been submitted in opposition to the proposed fees; and

WHEREAS, the _____ protests against the imposition of the solid waste fees represents approximately _____ percent of the _____ total properties to be assessed the fee; and

WHEREAS, the total number of protests received by the County represent less than a majority protest as provided for in Section 6 (a)(2) of Article XIII D; and

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE SIERRA COUNTY BOARD OF SUPERVISORS that:

Proposition 218 Protest Proceedings

The Board hereby certifies that the County has complied with the provisions of Section 6 of Article XIII D of the California Constitution and that less than a majority of the properties that are subject to the imposition of the special property charges levied by the County for use and support of the solid waste system, filed written protests against the imposition of said fees.

2 Imposition of Solid Waste Fees for 2022-202

The Board ratifies the imposition of the solid waste user fees as set out Resolution No. 2022-079.

ADOPTED by the Board of Supervisors of the County of Sierra, State of California on the 2 day of August, 2022 by the following vote:

- AYES: Supervisors
- NOES:
- ABSTAIN:
- ABSENT:

COUNTY OF SIERRA

, Chairman
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Heather Foster
Clerk of the Board

David Prentice
County Counsel

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

~~RESOLUTION NO. 2022-079~~

**RESOLUTION PERTAINING TO SOLID WASTE FEES
FOR THE 2022-2023 FISCAL YEAR**

WHEREAS, pursuant to the provisions of State law, including without limitation California Government Code Section 25820 to 25830, and Chapter 8.05 of the Sierra County Code, the Board of Supervisors is authorized to establish a schedule of fees, which may be imposed on real property, businesses and persons who benefit from the use or ability to use the County's solid waste system, the revenue from which is used for the acquisition, operation, and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation, and disposal services, where those services are provided; and

WHEREAS, the Board of Supervisors has determined that, for the 2022-2023 fiscal year, it is necessary and appropriate to continue to impose and to collect said solid waste fees from properties that use, or as to which the solid waste system is immediately available for their use, in proportion to their respective estimated use of the solid waste system during the 2022-2023 fiscal year, which fees are used for and essential to the operation of the County's solid waste system; and

WHEREAS, the amount of the fees have been calculated for each of the 2,209 individual properties within Sierra County that benefit from the use, or the immediate availability for use of the County solid waste system, based upon the nature of the uses occurring thereon and the volume of waste generated from the uses and other factors that reasonably relate the waste disposal fee to the property or business or person upon which it would be imposed and based thereon has determined that the fee for disposal for a residential use shall be \$366.84 per year (per each residential unit on the property), and the fee for non-residential users at the rate of \$20.38 per loose cubic yard; and

WHEREAS, pursuant to the provisions of Article XIII A of the California Constitution (Proposition 13) and Articles XIII C & D (Proposition 218), the imposition of fees for the use and support of the County solid waste system in proportion to the waste generated by property owners and other users of the solid waste system does not constitute special taxes, and are legitimate user based fees; and

WHEREAS, the Board of Supervisors has determined that pursuant to the provisions of Proposition 218 it is appropriate for the County to conduct proceedings under Section 6 of Article XIII D of the Constitution, to address the solid waste fees on residential uses and businesses and other properties within the County that use or that have the right to use the solid waste system in effect from the prior years, which fees are subject to written protest by property owners in proportion to their respective estimated use of the solid waste system during the 2022-2023 fiscal year; and

WHEREAS, notices will be mailed to each of the properties to be assessed the solid waste fee in accordance with the requirements of Section 6 of Article XIII D (including without limitation) notice of the pending levy of the fee, the method of calculation of the fee, the property owners' right to protest the levy of the fee and the procedures to be followed to submit a protest, along with the time and place for the hearing on the proposed fees and the protests, following which the Board of Supervisors will determine if a majority protest has been made against the imposition of the fee increase.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE SIERRA COUNTY BOARD OF SUPERVISORS that:

Section 1. Solid Waste Fees to be Effective July 1, 2022.

A. Effective July 1, 2022, the solid waste fees, for all categories as set forth in Section 1 above, are hereby established for the 2022-2023 fiscal year for the use of and/or disposal of refuse at any County transfer station, as set forth herein. All property, businesses, entities, organization or persons (collectively hereinafter referred to as "properties") that use the County solid waste system, or for which the solid waste disposal system is available for their use, shall pay a solid waste fee for the 2022-2023 fiscal year as follows:

Single Family Residential (including equivalent uses)	\$366.84 per year, continuation of 2022-2023 fiscal year fee
Multi-Family Residential (i.e., apartments, duplexes, granny houses and guest houses)	\$366.84 per year per residential unit, continuation of 2022-2023 fiscal year fee

B. All other developed parcels, businesses, entities, organization or persons occupying property or conducting any activity that generates waste, collectively referred to herein as the "non-residential properties" or singularly as a "non-residential property", shall pay a fee at the rate of \$20.38 per (uncompacted) cubic yard based upon the estimated volume of the refuse generated on the property (excluding material that is recycled), which volumes are reported to the County by the licensed waste hauler (consisting of waste generation for non-residential properties between April 1, 2021 through March 31, 2022) or are otherwise reasonably estimated or documented by County. The waste generation information for non-residential properties is based upon the waste generation information compiled from the records obtained by the waste hauler serving the property showing the waste disposal for the property during all or portions of the preceding fiscal year, or such other information as may reasonably establish or provide the basis for an estimate of the amount of refuse generated from the property, enterprise or business. Non-residential properties (and which are not properties otherwise exempt) shall pay the fee established by the Solid Waste Fee Administrator based on the rate of \$20.38 per (uncompacted) cubic yard for the use or estimated use of the solid waste system for the 2022-2023 fiscal year.

C. Any non-residential property which exceeds the amount of refuse that is

established for the property as the basis for the calculation of the parcel charge shall be subject to the imposition of an additional charge at the rate of \$20.38 per (uncompacted) cubic yard for any additional refuse that is generated on the property. The Solid Waste Fee Administrator is authorized to perform random reviews of the waste generation of property in order to ensure that the amount of the refuse has been appropriately and fairly determined for the property. An additional charge shall be imposed at the rate of \$20.38 per (uncompacted) cubic yard for any additional refuse generated on the property that is over the amount which was used as the basis for establishing the fee for the property, enterprise or person.

D. For the purpose of this Section, a residence shall be deemed to exist, and a fee shall be imposed as to real property upon which a structure considered to be a single-family residence, or its equivalent is located.

E. Any real property containing a single-family residential unit as a separate structure or unit and one or more other residential units (such as a "granny" or handicapped unit, or any other structure or shelter in which people live on the property) shall pay a fee for the single family unit as established herein and an additional amount of \$366.84 for each additional unit.

Section 2. Calculating Volume of Non-Residential Waste.

Pursuant to Sierra County Code section 8.04.040, all non-residential properties are required to subscribe to a solid waste collection service. In the event that collection service is unavailable, or that County is otherwise unable to obtain information as to the specific amount of waste generated by a particular property, the Solid Waste Fee Administrator is authorized to consider any and all relevant evidence in determining the appropriate fee, including but not limited to past estimates or data, waste generation by comparable operations, and direct observation by witness (including any staff at transfer stations). The owner of such non-residential property, however, shall retain all rights to present contrary evidence pursuant to Sierra County Code section 8.05.025(a)(3).

Section 3. Appeal Provisions

Fees established by this Resolution shall be subject to the appeal/adjustment procedures as set out in Chapter 5 of Part 8 of the Sierra County Code. It is the intent of the Board of Supervisors that these appeal or administrative adjustment procedures shall constitute an administrative procedure that allows individual property owners to appeal the solid waste fee as to their respective properties. Individual property owners shall be required to comply with the appeal provisions, as a means to exhaust administrative remedies, in order to file a claim with the County for a refund.

Section 4. Collection of Fees

The solid waste fees may be billed and collected by the County Tax Collector as part of the regular county tax billing system (on the property tax bill). Notice of the

appeal/adjustment procedures shall be included as part of the property tax bill if the fees are collected on the property tax bill. Any separate bill sent for collection of the fees shall also include a notice of the right to seek an administrative appeal or adjustment of the fees following the procedures set out in Chapter 5 of Part 8 of the Sierra County Code.

Section 5. Application or Code of Civil Procedure Sections 860-870 to Actions Contesting Fees

Pursuant to the Provisions of Section 8.05.110 of the Sierra County Code, the provisions contained in California Code of Civil Procedure Sections 860-870 shall be applicable to the adoption of solid waste adopted by the Board of Supervisors and any legal action contesting the validity of this Resolution or contesting the validity of any fee or charge shall be filed within sixty (60) days from the date of the adoption of this Resolution if contesting the validity of the County's authority to or procedures used in adopting the solid waste fees. Any person or entity contesting the application of the fees to their individual property shall be entitled to contest the decision made by the Board as a result of an administrative appeal hearing (see Section 2, above) within the time requirements set out Section 8.05.025 (b)(10) of the Sierra County Code and shall do so by way of an action under Code of Civil Procedure Section 1094.5.

PASSED AND ADOPTED by the Sierra County Board of Supervisors on June 29, 2022, by the following vote:

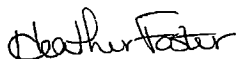
AYES: Supervisors Adams, Huebner, LeBlanc, Dryden, and Roen
NOES: None
ABSENT: None
ABSTAIN: None

COUNTY OF SIERRA



PAUL ROEN, CHAIRMAN
Board of Supervisors

ATTEST:



HEATHER FOSTER
Clerk of the Board

APPROVED AS TO FORM:



DAVID PRENTICE
County Counsel

Solid Waste Fee Information

Included with this information statement is a **Notice of Imposition of Solid Waste Fee** for the 2022-2023 fiscal year. This information statement will provide a brief explanation as to why this fee is being proposed, how the County Solid Waste System operates, and what the funding options are for keeping the Solid Waste System running for the next fiscal year.

The County Solid Waste System consists of the operation of the five transfer stations; located in Loyalton, Sattley, Sierra City, Ramshom (near Downieville) and Alleghany. The Solid Waste System is operated with funds paid for by the properties that use or have a right to use the System. Any refuse brought to the System from outside of the County is required to pay gate fees.

The total budget for the operation of the County Solid Waste System for the 2022-2023 Fiscal Year will be approximately \$1,295,989. Due to increases in operational costs of the County Solid Waste System, the solid waste fee has increased \$2.00 per loose cubic yard. The cost for each user is based on the estimates of their fair share use of the Solid Waste System for the coming year.

The Board of Supervisors has carefully considered other options for funding the Solid Waste System, including gate fees. The Board of Supervisors is concerned that reliance on gate fees as a funding source could lead to a significant increase in the costs for waste disposal. There is also concern that high gate fees could lead to an increase in illegal dumping in the County; to the detriment of all of the County's citizens and businesses. In addition, the lack of a stable and adequate funding source for the Solid Waste System could result in the County having to cut back on the hours of operation or even close County transfer stations. It is for these reasons that the Board of Supervisors has determined that it is in the best interest of everyone to make sure that there is a stable funding source for the Solid Waste System, which can best be achieved by continuing the use of the Solid Waste Fees that are imposed annually.

In the event that a majority of property owners protest against the imposition of the Solid Waste Fees for this coming year, the Board of Supervisors may have to rely upon the use of gate fees. Other options would be to require all property owners to subscribe to a solid waste collection service in order to ensure that all solid waste is properly disposed of within the County.

Note - "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment fee, or charge in question.

Property owners may appeal their solid waste fee. Procedures for solid waste fee appeals are set out in Chapter 5 of Part 8 of the Sierra County Code. Information concerning appeals may be obtained from the County Solid Waste Fee Administrator by calling 530-289-3283.

**NOTICE OF IMPOSITION OF SOLID WASTE FEE
FOR FISCAL YEAR 2022-2023**

In accordance with State law, the Sierra County Board of Supervisors is proposing establish a solid waste fee to be imposed against the real property that you own in the County that is identified by reference to the County Assessor's Parcel Number (APN) as shown below. The fee is for your property's use of the County's solid waste system for 2022-2023 and unless modified will be the same in subsequent fiscal years.

Your property has been identified and classified for use as non-residential and will be required to pay an annual fee in the amount of \$_____ for use of the County Solid Waste Facilities during the 2022-2023 fiscal year, unless a majority of all of the property owners who are subject to paying the solid waste fee file protests. This fee will cover the cost for disposal of the waste that is estimated to result from the use of the property and is in lieu of gate fees for that waste. This fee will only be used to pay for the operation and expense of the County Solid Waste System. It does not provide any general revenue to the County and cannot be used for any other purpose.

All real property within the County that is used in a manner that is or is likely to generate solid waste has been identified and classified by the County according to its waste generation. Waste generation factors for non-residential uses have been derived by calculating records of actual waste deposited into the county waste stream between April 1, 2021 and March 31, 2022, as reported by the solid waste hauler licensed by the County.

The cost for use by individual properties is determined by dividing the total cost of operation of the Solid Waste System by the total estimated waste generation derived from all properties in the County that use or have access to the County transfer stations. This establishes a unit cost for solid waste service, which is then applied to the waste generation factor identified for your real property.

NOTICE IS HEREBY GIVEN that the Sierra County Board of Supervisors will conduct a public hearing on the question of imposing the proposed Solid Waste Fees for 202-2023, at **10:00 A.M., August 23, 2022, in the Board of Supervisors Chambers, Downieville, California.** You have a right to file a written protest against the imposition of the proposed Solid Waste Fees by signing and returning this notice (according to the instructions below). If a majority protest is filed against the imposition of the fees, the increased solid waste fees will not be imposed.

INSTRUCTIONS FOR FILING AND SUBMITTING WRITTEN PROTEST

To protest against the imposition of the increase in the Solid Waste Fees for 2022-2023, you must fill in the following information and return this notice to the Sierra County Board of Supervisors, by mailing to Board of Supervisors, P.O. Drawer D, Downieville, CA, 95936, or by returning the form to the Board of Supervisors no later than the commencement of the public hearing, at 10:00 A.M., on August 23, 2022, as referenced above.

I/we, hereby certify under penalty of perjury that I/we, are owners of record of the real property located in the County of Sierra and identified as APN _____

I/we hereby execute this document as our formal protest to the imposition of the increase in the County Solid Waste Fees against our property for 2022-2023 fiscal year.

Dated: _____ Signed _____

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FOR FISCAL YEAR 2022-2023**

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Your property has been identified and classified for use as residential and will be required to pay an annual fee in the amount of \$ _____ (equivalent to \$ _____ per month) for use of the County Solid Waste Facilities during the 2022-2023 fiscal year unless a majority of all of the property owners who are subject to paying the solid waste fee file protests. This fee will cover the cost for disposal of customary household waste and is in lieu of gate fees for that type of waste. This fee will only be used to pay for the operation and expense of the County Solid Waste System. It does not provide any general revenue to the County and cannot be used for any other purpose.

All real property within the County that is used in a manner that is or is likely to generate solid waste has been identified and classified by the County according to its waste generation. Waste generation factors for residential uses have been derived by calculating the records of actual waste generation from approximately 100% of the residential properties in the County that receive hauler services from the County's licensed solid waste hauler. Waste generation factors for all other uses are derived from records of solid waste haulers who are licensed by the County.

The cost for use by individual properties is determined by dividing the total cost of operation of the Solid Waste System by the total estimated waste generation derived from all properties in the County that use or have access to the County transfer stations. This establishes a unit cost for solid waste service, which is then applied to the waste generation factor identified for your real property.

NOTICE IS HEREBY GIVEN that the Sierra County Board of Supervisors will conduct a public hearing on the question of imposing the proposed Solid Waste Fees for 2022-2023, at **10:00 A.M., August 23, 2022, in the Board of Supervisors Chambers, 100 Courthouse Square, Downieville, California.** You have a right to file a written protest against the imposition of the proposed Solid Waste Fees by signing and returning this notice (according to the instructions below). If a majority protest is filed against the imposition of the fees, the increased solid waste fees will not be imposed.

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I/we hereby execute this document as our formal protest to the imposition of the increase in the County Solid Waste Fees against our property for 2022-2023 fiscal year.

Dated: _____ Signed _____