



## RESOLUTION NO.

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

### **RESOLUTION ESTABLISHING AN APPEAL PROCESS FOR COUNTY SERVICE AREA 10 WASTE MANAGEMENT FEES**

**WHEREAS**, California Government Code, Sections 25210.77a and 25210.77e, given continuing effect through Government Code Section 25210.3(d), and Government Code Section 25830, provide the County of El Dorado ("County") with the authority to establish a schedule of fees to be imposed on land within County Service Area #10 (CSA #10), to be used for the acquisition, operation and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation and disposal services and provides for a procedure for the collection thereof; and

**WHEREAS**, in addition to the foregoing, Section 41901 of the California Public Resources Code ("the California Integrated Waste Management Act of 1989") provides the County with the authority to impose and collect fees sufficient to pay the costs of preparing, adopting, and implementing an integrated waste management plan prepared pursuant to said Act; and

**WHEREAS**, each fiscal year, the Board of Supervisors ("Board") conducts a duly noticed public hearing, to receive and consider documentation and testimony to allow the Board to determine fees and to classify the land within CSA #10 for upcoming fiscal year based upon the various uses to which the land is put, the volume of waste occurring from the different land uses and other factors reasonably relating the waste management fees to the land upon which it is imposed, and considered any and all objections and protests thereto;

**THEREFORE, BE IT RESOLVED** by the Board that the following procedures are hereby established to provide for the adjustments of parcel fees and for appeals to be made to the Board with regard to the levy of the waste management parcel fees commencing fiscal year 2013-2014:

1. Any waste management parcel fee shall be adjusted where, upon application filed by the property owner or upon discovery by the Director of Environmental Management or his/her designee ("Director") of any error, it is established that the use code and associated multiplier as delineated in the resolution confirming Waste Management Parcel Fees for CSA #10 for the fiscal year ("CSA #10 Fee Resolution") has been inappropriately applied to the parcel, business or real property interest.
2. The following procedures shall apply with regard to any request for an adjustment:
  - A. Any property owner seeking an adjustment of his or her parcel fee shall, within 30 days of mailing of the secured property tax bill may file an application for adjustment with the El Dorado County Community Development Agency, Environmental Management Division ("Agency") on the form to be provided by the Agency for that purpose. With reasonable cause, the Director may extend the application deadline, but under no circumstances later than April 10 of each year. The application shall be

executed under penalty of perjury and shall not require any filing fee. The application shall include information sufficient to identify the property including assessor's parcel number, name and mailing address of owner, reason for requesting the review and the signature of the owner.

- B. Upon receipt of any such application the Agency shall promptly review it to determine whether the appropriate parcel fee was assessed against the property in accordance with the provisions of the CSA #10 Fee Resolution. The Director shall be authorized to approve any adjustment upon a determination that the adjustment is in keeping with the provisions of said Resolution. The submission of a request for review of a waste management parcel fee does not relieve the responsibility to pay the imposed fee or the secured tax bill upon which the fee is levied on or before the delinquent date of the property taxes.
- C. If the Director adjusts any parcel fee, he/she shall promptly forward a statement to the El Dorado County Auditor-Controller authorizing a correction of the amount.
- D. Any property owner whose application for adjustment is denied by the Director may, within 30 days of the mailing of written notification of the Director's decision, file an appeal with the Board of Supervisors for further review on the application for adjustment. The application for review by the Board of Supervisors shall be on a form to be provided by the Community Development Agency, Environmental Management Division; this appeal shall be at no charge.
- E. Upon receipt of an application for review by the Board of Supervisors, the Environmental Management Division shall schedule an appeal hearing which shall be no later than June 30 of the fiscal year preceeding the effective date of the fee under appeal or 60 days from the receipt of the application, whichever is earlier. The Environmental Management Division shall provide the applicant mailed notice no later than ten (10) calendar days in advance of the hearing date.
- F. At the appeal hearing the applicant shall be allowed to present his or her evidence concerning the proper classification and/or the number of residential units on the subject real property. The Director or his/her designee shall be present to provide a statement of the reasons for the Director's decision regarding the adjustment request. Based upon the information submitted at the hearing, the Board shall determine the proper classification and/or the number of equivalent dwelling units on the real property for the purpose of imposing the appropriate waste management parcel fees in accordance with the provisions of the CSA #10 Fee Resolution.
- G. The Board shall announce its decision at the conclusion of the hearing or within 21 days thereafter. If the Board does not orally announce its decision at the conclusion of the hearing, upon its subsequent announcement it shall direct the Clerk of the Board to promptly mail written notice of the Board's decision to the applicant. If the Board orally announces its decision at the conclusion of the hearing, the Clerk will not be required to provide the applicant with written notification of the Board's decision.
- H. Any suit to attack, set aside, void or annul any decision of the Board of Supervisors regarding the classification, use, size of buildings or actual waste generation of

property for the purpose of waste management parcel fees shall be filed in the El Dorado County Superior Court within 30 days of the Board's oral pronouncement of its decision or, if no oral decision is rendered at the hearing, within 30 days of the date of mailing of the notification of the Board's decision. Any such suit shall be brought pursuant to the provisions of California Code of Civil Procedure Section 1094.5.

**BE IT FURTHER RESOLVED,** this Resolution and the appeal process described herein shall be given continuing effect with the confirmation of the Waste Management Fees for County Service Area #10 each fiscal year, until such time as it is superceded, repealed or otherwise made invalid.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote of said Board:

Attest:	Ayes:
James S. Mitritin	Noes:
Clerk of the Board of Supervisors	Absent:

By: \_\_\_\_\_

Deputy Clerk	Chair, Board of Supervisors
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