

**APPEAL OF SOLID WASTE FEE ASSESSMENT
2018-2019**

A separate appeal must be filed for each Parcel and/or unsecured property tax bill.

NAME: _____; PARCEL/ACCOUNT NUMBER: _____
hereby appeals the decision of the solid waste fee administrator denying my/our application for an adjustment to the solid waste fees that have been imposed for the 2018-2019 Fiscal Year. I/we further certify that I/we or the entity that I/we represent is/are the owner, or tenant or other party responsible for the waste disposal fee imposed on the above-identified property, pursuant to Section 8.05.010 of the Sierra County Code.

I/we further certify that the basis for the adjustment of solid waste fees is as follows: *(Check all applicable boxes)*

RESIDENTIAL FEE PROPERTIES:

- The property qualifies as a single-family residence.
- The property qualifies as a multi-family residential property and the maximum total number of units that are available for occupancy during the year has been miscalculated as _____ units, and the actual number of units that are or may at any time be located on the property during the year is _____.
- Solid Waste System is not immediately available for use by the subject property.

NON-RESIDENTIAL FEE PROPERTIES:

- The amount of refuse that has been generated from the property during the period set by ordinance (**April 1, 2017** thru **March 31, 2018**) has been erroneously calculated as _____ cubic yard of waste and should be _____ cubic yards.

The basis for the above waste generation estimate is as follows: (Use separate page if necessary.)

The appeal must include a written statement of facts fully and fairly describing the basis for the appeal (demonstrating the misapplication of the solid waste fee to the property) together with copies of all relevant documents in support of the appeal.

FAILURE TO PROVIDE ALL INFORMATION REQUIRED BY THIS APPLICATION MAY RESULT IN THE DENIAL OF THE APPLICATION FOR ADJUSTMENT TO SOLID WASTE ASSESSMENT. APPEALS MUST BE FILED WITHIN 60 DAYS OF THE DATE OF THE SOLID WASTE FEE ADMINISTRATOR'S DENIAL OF THE APPLICATION FOR ADJUSTMENT.

In submitting this application for adjustment in solid waste assessment, I declare under penalty of perjury that the foregoing information is true and correct.

Executed on this _____ day of _____, _____.

SIGNATURE

RETURN THIS FORM TO:
Sierra County Clerk-Recorder
P.O. Box D
Downieville, CA 95936

PRINT OR TYPE NAME

PRINT NAME OF PROPERTY OWNER IF DIFFERENT FROM APPLICANT

SIERRA COUNTY CODE

CHAPTER 8.05 - SOLID WASTE SYSTEM FEES AND CHARGES

8.05.010 Solid Waste System Charges

- (a) Pursuant to the provisions of Section 6 of Article XIII D of the California Constitution, Government Code Section 25830 and/or Health and Safety Code Section 5470 et. seq., the Board of Supervisors is authorized to establish a schedule of fees for solid waste services provided by the County to the residents, businesses, property owners and any others that may benefit from the use of the County solid waste disposal system or the immediate availability of such system for use by their properties. Revenue from the fees may be used only for the acquisition, operation, and maintenance of county waste disposal sites and disposal services. The Board is hereby authorized to establish such schedule of fees annually and may do so by enactment of either a resolution or an ordinance. It is the intent of this ordinance to authorize the continued use of the solid waste fees, and to authorize and direct that the actual schedule of fees for each year be established annually by the Board of Supervisors by the adoption of a resolution of the Board, based on the most recent waste generation information obtained by the County that fairly reflects the anticipated waste generation arising from each parcel, enterprise or activity.
- (b) Annually, on or before the first day of July of each calendar year, the Board of Supervisors may elect to continue or to adjust the fees for solid waste disposal based upon the refuse generation factors as established in a resolution to be adopted by the Board of Supervisors. Solid waste fees shall be imposed on the owners of property for the estimated use of the solid waste system by the property or the immediate availability of the solid waste system for use by the property. As used herein "immediate availability" or "immediately available" shall mean that the property is developed with a structure or otherwise used, the customary nature of which is that the use of the structure or the customary use of the property would normally generate solid waste or create a need to dispose of solid waste from the property and as to which, the County solid waste system is available to the property owner for his or her use. The election of a property owner not to use his or her real property for any period of time does not negate the fact that the County solid waste system being available for the property owner's use. (Immediate availability such be interpreted consisted with the court ruling in *Paland v. Brooktrails Township Community Services Dist. Bd. of Directors*, 176 Cal.App.4th 158.) In the event that the Board does not adjust the solid waste fees from the preceding year, the fees shall be deemed to remain at the level (amount) set forth in the preceding year.
- (c) In each fiscal year as the Board may elect, all real property, enterprises, entities or persons within the County that use the County solid waste system and all real property, which the County reasonably determines is developed or otherwise used in a manner, the nature of which development, structure or use would typically be expected to generate solid waste from the property and as to which the solid waste system is immediately available to the property to accept any waste or refuse generated therefrom, shall pay a solid waste fee based upon the volume of refuse generation from the property or estimated to or reasonably occur from the property based on the nature of the permitted use of the property, which generation factors shall be established in the most recently adopted resolution of the Board of Supervisors.
- (d) The fees may be established, billed, and collected on a monthly or yearly basis. Alternatively, the Board may direct by resolution, that the fees billed and collected by the County Tax Collector as part of the regular county tax billing system at the same time and in the same manner as provided for real property taxes and shall incur the same penalties and interest thereon as provided for property taxes, and delinquencies may be enforced and collected in the same manner as for property taxes. (Ord. 1022, eff. 7/15/10, prior 934, 918, 908)

8.05.025 Adjustments to Solid Waste Fees

- (a) Any solid waste fee shall be adjusted where, upon application filed by the property owner or upon discovery by the Solid Waste Fee Administrator it is established that:
1. As to single family residences, the property was erroneously classified (i.e., shown as some other type of use), or the solid waste system is not immediately available for use by the subject property.
 2. As to mobile home parks and multi-family residential properties, the total number of units that are available for occupancy during the year (or any portion of the year) has been erroneously calculated,
 3. As to all other uses or classes of property, the estimate, based on the information available as of April 1st of the preceding year, of the amount of refuse that is reasonably expected to be generated therefrom during the entire fiscal year (July 1 to June 30), has been erroneously calculated,
- (b) The following procedures shall apply with regard to any request for adjustment:
1. Any property owner, business owner or other person or entity responsible for paying for the cost of solid waste disposal, may seek an adjustment of solid waste fee as to his or her property, enterprise or activity, on or before December 1st of the fiscal year in which the solid waste fee was imposed, by filing an application for adjustment (which shall constitute an appeal) with the Solid Waste Fee Administrator on the form to be provided by the County for that purpose. The application shall be executed under penalty of perjury but shall not require any filing fee, unless a filing fee is otherwise enacted by resolution of the Board of Supervisors. The application shall include information sufficient to identify the property, the type(s) and number of structures, the enterprise or activity and the nature of the use or uses occurring on the property. If the property contains multiple residential units, the applicant shall state the number of units that are or may be located on the property during the year. In addition, for all non-residential properties for which an application for adjustment is filed, the application shall state the amount of refuse that the property (or business) owner or other person or entity responsible for the solid waste generation and/or disposal, reasonably anticipated, based on the information available as of April 1st of the preceding year, to be generated during the ensuing fiscal year, together with a detailed explanation of the method and basis for calculating the projected refuse generation for the property, enterprise or activity and shall include all supporting documentation.
 2. Upon receipt of any such application, the Solid Waste Fee Administrator shall promptly review same to determine whether the appropriate solid waste fee was imposed in accordance with the provisions of this Chapter and any implementing resolutions. The Solid Waste Fee Administrator shall be authorized to approve any adjustment upon a determination that the adjustment is in keeping with the provisions of this Chapter.
 3. The Solid Waste Fee Administrator shall also be directed to make adjustments to solid waste fees billed to any property owner, enterprise or person conducting an activity thereon, where it is determined that the such owner, enterprise, person or entity has been

undercharged for its actual or reasonably estimated use of the County Solid Waste System upon discovery of facts warranting an adjustment. Any correction of the solid waste fee to increase the solid waste fee shall be made on or before June 30, of the current fiscal year.

4. If the Solid Waste Fee Administrator adjusts the solid waste fee for any property, enterprise, or person or entity conducting an activity, which generates solid waste, so as to lower or raise the solid waste fee, he/she shall authorize a refund of the amount, which the Solid Waste Fee Administrator determines represents the overcharge. Any such refund shall be paid out by the Auditor only (1) upon certification by the Solid Waste Fee Administrator that he/she has verified that the full amount of the solid waste fee has previously been paid, or (2) if the solid waste fee has not been paid in full, then upon written request by the property owner or other responsible person, the Auditor shall issue a warrant representing the amount of the refund which shall be made payable to the Tax Collector and which shall be tendered by the Auditor to the Tax Collector only at the time the property owner or other responsible person tenders payment in full of the solid waste fees. Any such certification by the Solid Waste Fee Administrator shall identify the property (by Assessor's parcel number), or other location generating the solid waste, together with the property owner, enterprise or activity (and responsible person), the solid waste fee as imposed, the corrected amount and the amount to be refunded.
5. If the Solid Waste Fee Administrator adjusts the solid waste fee so as to raise the solid waste fee, a supplemental bill shall be issued by the Solid Waste Fee Administrator for any increase in the solid waste fee.
6. If an application for adjustment is denied by the Solid Waste Fee Administrator, the property or business owner or other person or entity responsible for payment of the solid waste fee may, within sixty (60) days of the mailing of written notification of the Solid Waste Fee Administrator'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 County Clerk, as the Clerk of the Board of Supervisors. The appeal shall be accompanied by a written statement of facts fully and fairly describing the basis for the appeal (demonstrating the misapplication of the solid waste fee to the property) and by copies of all relevant documents in support of the appeal. There shall be no charge for the filing of the appeal. The Board of Supervisors shall hear all such appeals, or the Board may establish such other hearing body or officer, as it deems appropriate to hear and decide appeals filed under the provisions of this Section. All references herein to the Board of Supervisors as the appeal body shall be deemed to mean such other hearing body or officer as the Board may subsequently establish.
7. Upon receipt of an application for review by the Board of Supervisors, the Clerk of the Board shall endeavor to schedule an appeal hearing within one hundred and twenty (120) days from the receipt of the application. The Clerk shall provide the applicant mailed notice no later than ten (10) calendar days in advance of the hearing date. A copy of the notice shall be promptly transmitted to the Solid Waste Fee Administrator. (Ord. 958, eff. 6/17/04, prior 937, 934)

8. At the appeal hearing the applicant may be allowed no more than thirty (30) minutes to present his or her evidence concerning the waste generation occurring on the subject real property of from the subject enterprise or activity. The Solid Waste Fee Administrator shall have a representative present to provide a statement of the reasons for the Solid Waste Fee Administrator's decision regarding the adjustment request. Based upon the information submitted with the appeal application and received at the hearing, the Board shall determine the reasonable estimate of the refuse generation therefrom in order to impose the appropriate solid waste fees in accordance with the provisions of this Chapter and the latest adopted resolution imposing solid waste fees (solid waste fees) for the present fiscal year.
9. The Board shall announce its decision at the conclusion of the hearing or within twenty-one (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 County Clerk 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.

If the Board adjusts the solid waste fee for any property, enterprise, or person or entity conducting an activity, which generates solid waste, so as to lower or raise the solid waste fee, the Board shall authorize a change in the amount of the solid waste fee. If the Board adjusts the solid waste fee so as to lower the fee, the Board shall authorize a refund of the amount that the Board determines represents the overcharge. No refund shall be made until the solid waste fee is paid in full. Any such refund shall be paid out by the Auditor only upon certification by the Solid Waste Fee Administrator that the full amount of the solid waste fee has been paid. The certification shall also identify the property (by Assessor's Parcel Number) or the location generating the solid waste, together with the property owner, enterprise or activity (and responsible person), the solid waste fee as imposed, the correct amount of the fee and the amount to be refunded. Upon certification, the Auditor shall issue a warrant representing the amount of the refund.

If the Board adjusts the solid waste fee so as to raise the solid waste fee, a separate bill shall be issued by the Solid Waste Fee Administrator for any increase in the solid waste fee. (This shall be a separate bill and shall not be a supplemental property tax bill.) (Ord 958, eff. 6/17/04, prior 937, 934)

10. 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 refuse generation of property for the purpose of solid waste fees shall be filed in the Sierra County Superior Court within thirty (30) days of the Board's oral pronouncement of its decision or, if no oral decision is rendered at the hearing, within thirty (30) days of the date of the 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. (Ord. 1022, eff. 7/15/10; prior 958, 934)