

RESOLUTION NUMBER R- **316139**

DATE OF FINAL PASSAGE **APR 22 2025**

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO ADOPTING PROCEDURES UNDER
PROPOSITION 218 FOR SUBMITTING, RECEIVING, AND
TABULATING PROTESTS AGAINST SOLID WASTE
MANAGEMENT FEE.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. On November 2022, a majority of the voters approved Measure B, which amended Chapter 6, Article 6, Division 1, section 66.0127 of the San Diego Municipal Code, known as the “People’s Ordinance,” to, among other things, remove language that prevented the City from charging a fee for City-provided solid waste management services, including waste and recycling collection services (Solid Waste Management Fee).

B. The City of San Diego (City) worked with consultants to develop Solid Waste Management Fees and a fee schedule that is compliant with all legal requirements, including Article XIID, section 6 of the California Constitution (Proposition 218).

C. Proposition 218 requires the City to consider written protests to the proposed Solid Waste Management Fees and any proposed increases to the fees; however, it does not offer specific guidance as to how written protests are to be submitted, or how the city is to tabulate the protests.

D. The City wants to adopt procedures for submitting, receiving, and tabulating protests against the proposed Solid Waste Management Fees and any future proposed increases.

E. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The procedures herein are adopted for submitting, receiving, and tabulating protests against the proposed Solid Waste Management Fees and any future increases of the proposed fees.
2. Notice of the Solid Waste Management Fees or any proposed increases, required under section 6 of Article XIID of the California Constitution, shall be provided via U.S. mail to all record owners of each identified parcel, as provided in Government Code section 53750(g) and (j); notice shall be mailed at least forty-five days prior to the date of the public hearing where the Council will consider adopting or increasing the proposed fees.
3. Any record owner or customer of record who is subject to the proposed Solid Waste Management Fees may submit a written protest to the City Clerk: (i) at the public hearing prior to the close of the public hearing, (ii) by delivering the protest to the Office of the City Clerk prior to the public hearing, during business hours, or (iii) by mailing the protest to the Office of the City Clerk.
4. Protests must be received by the end of the public hearing, including protests mailed to the Office of the City Clerk; no protests received after the public hearing concludes will be accepted, even if postmarked prior to the hearing.

5. Oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest.

6. Each record owner, even if there are multiple record owners for a parcel, and each customer of record may submit a protest, but only one protest will be counted per parcel; any one protest submitted in accordance with these rules will be sufficient to count as a protest for that parcel.

7. Only one protest will be counted per parcel as provided by Government Code section 53755(b).

8. To be valid, a written protest must contain: (i) a statement that it is a protest against the fee that is the subject of the hearing, (ii) the name of the record owner or customer of record who is submitting the protest, (iii) the original signature of a record owner or customer of record of the property identified on the protest, or their authorized representative, and (iv) identification of assessor's parcel number or street address of the parcel; protests shall not be counted if any of the required elements (i through iv) are omitted.

9. Protests submitted by email, facsimile or as a photocopy will not be counted.

10. Any person who submits a protest may withdraw it by submitting a written request: (i) in-person at the public hearing, (ii) by delivering the request to withdraw the protest to the Office of the City Clerk prior to the public hearing, or (iii) by mailing the request to withdraw the protest to the Office of the City Clerk; the withdrawal of a protest shall contain the name of the record owner who submitted the protest and request to withdraw, and sufficient information to identify the affected parcel; only the individual who submitted a protest may withdraw it.

11. The public hearing and protest required by Proposition 218 prior to the adoption or increase of the Solid Waste Management Fees is not an election.

12. To protect the privacy interests of record owners and customers of record participating in the proceeding and the integrity of the Proposition 218 protest process, protests will not be considered public records and shall not be open to public inspection prior to the close of the public hearing; the City Clerk shall establish appropriate and reasonable administrative, technical, and physical safeguards to ensure the security and confidentiality of protests as required by this paragraph.

13. To ensure transparency and accountability in the fee protest tabulation, protests shall constitute disclosable public records from and after the time the protests are counted and the protest count is reported at the close of the public hearing.

14. The City Clerk shall determine the validity of all protests, and shall not accept any protest as valid if the City Clerk determines that any of the following conditions exist: (i) the protest does not identify a property served by the City for which the proposed fee is being imposed, (ii) the protest does not bear an original signature of a record owner or customer of record of the parcel identified on the protest, or their authorized representative, (iii) the protest does not state its opposition to the proposed fee which is the subject of the protest proceeding, (iv) the protest was not received by the City Clerk before the close of the public hearing on the proposed fee, or (v) a request to withdraw the protest is received prior to the close of the public hearing on the proposed fee.

15. The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to internal appeal.

16. The City Clerk shall report to the City Council the final tabulation of written protests following the close of the public hearing on the proposed fee, including protests received during the public hearing; a majority protest exists if written protests are timely submitted and not withdrawn by the record owners or customers of record of a majority (50 percent + one) of the parcels subject to the proposed fee.

17. If the number of protests received is insufficient to constitute a majority protest, the City Clerk may determine the absence of a majority protest without validating the protests received, but may deem them all valid without further explanation.

18. If at the conclusion of the public hearing, the City Clerk determines that additional time is needed to tabulate the protests, the City Clerk shall so advise the City Council, which may adjourn the meeting to allow the tabulation to be completed on another day or days; if so, the City Council shall declare the time and place at which the meeting shall be resumed.

APPROVED: HEATHER FERBERT, City Attorney

By Nicole M. Denow
Nicole M. Denow
Senior Deputy City Attorney

NMD:nsf
January 7, 2025
Or.Dept: ESD
Doc. No. 4010849

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on
APR 14 2025.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 4/21/25
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 14 2025, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 22 2025.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Linda Arvin, Deputy

Office of the City Clerk, San Diego, California

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