

RESOLUTION NO. R. 04-2021

A RESOLUTION OF THE GOVERNING BOARD OF THE BIG BEAR AREA REGIONAL WASTEWATER AGENCY TO INCREASE THE CURRENT FEE SCHEDULE FOR THE DISPOSAL OF WASTE DELIVERED TO REGIONAL TREATMENT PLANT

WHEREAS, the Big Bear Area Regional Wastewater Agency (“BBARWA”) is a joint powers agency created under Government Code sections 6500 *et seq.* to exercise specified common powers of the member agencies for the purpose of constructing, maintaining and operating a regional system for the treatment and disposal of sewage and wastewater for the entire Big Bear Valley area (“Regional System”); and

WHEREAS, the Regional System is operated by BBARWA pursuant to the Waste Discharge Requirements and/or National Pollution Discharge Elimination System permits issued to BBARWA by a California Regional Water Quality Control Board in conformity with sections 13263, 13377, and 13523 of the California Water Code and Title 40 CFR Part 403 of the Clean Water Act; and

WHEREAS, Title 7 of the BBARWA Code of Resolutions and Ordinances (“BBARWA Code”) provides uniform rules for the regulation of wastewater discharges by establishing terms, limits, conditions, and permits for discharges, whether from existing, new or increased pollutant contributions, to provide for equitable distribution of BBARWA’s and collecting agencies’ costs, and to provide procedures for complying with requirements placed upon BBARWA and collecting agencies by local, state and federal regulations (BBARWA Code 7.040.020 A); and

WHEREAS, Section 7.24.090 (A) of the BBARWA Code requires in part that “[a]ll domestic waste haulers discharging sanitary waste to BBARWA’s regional treatment plant pay applicable fees related to said discharge” (“Waste Disposal Fee”); and

WHEREAS, the costs of operating and maintaining the regional treatment plant have increased, resulting in the need for a Waste Disposal Fee increase in order to recover and fairly allocate BBARWA’s costs; and

WHEREAS, BBARWA retained the services of HDR Engineering, Inc. in order to develop recommendations and a Comprehensive Sewer Rate Study (the “HDR Report”). A copy of the HDR Report dated February 2018 is on file at BBARWA’s administrative offices and is available for public review; and

WHEREAS, since the time of the HDR Report, costs for providing the services for which the Waste Disposal Fee is collected have increased in amounts higher than projected, as documented in BBARWA’s FY 2022 Budget and which updates the HDR Report (the HDR Report, as updated with current data, the “Report”), which data is available for inspection at the BBARWA administrative offices; and

WHEREAS, the Governing Board previously adopted its Waste Disposal Fee pursuant to Ordinance No. O. 04-2018 on April 25, 2018 (the “Ordinance”), in accordance with the HDR Report; and

WHEREAS, the Ordinance authorized BBARWA to make future adjustments to the Waste Disposal Fee by resolution, and pursuant to this Resolution, BBARWA seeks to increase the Waste Disposal Fee to reflect increased costs, as reflected by the Report; and

WHEREAS, section 5741 of the Health and Safety Code and Government Code sections 54344-54358, and Government Code Section 61000 *et seq.*, authorize the Governing Board to prescribe and collect rates and charges for services and facilities furnished by BBARWA in connection with its sewerage system; and

WHEREAS, following the Report’s recommendations, the Governing Board finds it necessary to revise the current “fee for discharge” as defined in Section 7.24.090 (B) of the BBARWA Code while using the same formula for Equivalent Dwelling Units (EDU) as such term is defined in the Report; and

WHEREAS, notice of public hearing has been given in compliance with Government Code section 66018; and

WHEREAS, pursuant to California Constitution article XIII C, section 1(e)(2), a fee or charge is a tax and subject to voter approval if it is imposed on a fee payer for a service and that service is provided to others who are not charged for the same service, or the fee exceeds the cost of providing the service; and

WHEREAS, Waste Disposal Fees are fees for a service subject to California Constitution article XIII C, section 1(e)(2); and

WHEREAS, pursuant to California Constitution article XIII C, section 1(e), BBARWA has the burden of demonstrating that the amount of the Waste Disposal Fees imposed is no more than necessary to cover the reasonable costs of providing discharge services, and that the manner in which those costs are allocated to a payer bear a fair or reasonable relationship to the payer’s burdens on, or benefits received from, the governmental activities provided; and

WHEREAS, the Governing Board has determined that: (1) the proposed Waste Disposal Fees do not exceed the estimated reasonable cost of the services and facilities for which the Waste Disposal Fees will be imposed; (2) the allocation of those costs bear a fair or reasonable in relationship to the burdens on, or benefits that those who pay the Waste Disposal Fees will receive from such services and facilities; (3) the proposed Waste Disposal Fees are imposed for public facilities in existence at the time the Waste Disposal Fees are imposed or for new facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, BBARWA staff has determined that the increases in Waste Disposal Fees are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines and Public Resources Code section 21080(b)(8) because: (i) the increased charges are for the purpose of meeting operational and maintenance expenses of the aforementioned services; and (ii) the charges constitute the creation of a funding mechanism/other governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and

WHEREAS, the adoption of this Resolution is similarly exempt from CEQA.

NOW, THEREFORE, the Governing Board of the Big Bear Area Regional Wastewater Agency hereby resolves as follows:

1. Recitals. The recitals set forth above are true and correct and by this referenced incorporated herein.
2. Adoption of Waste Disposal Fee. The Governing Board hereby adopts the Waste Disposal Fees in the maximum amounts and on the dates set forth below, measured in \$/1,000 gallons:

	July 1, 2021
Chemical Toilet	\$68.56
Holding Tank	\$ 7.29
Septic Tank	\$82.05

The treatment and disposal costs shall be prorated for discharges less than or in excess of 1,000 gallons.

3. Amendment to BBARWA Code. Section 7.24.090 of the BBARWA Code is hereby replaced in its entirety, to read as follows:

“Section 7.24.090 Fee for discharge

A. All domestic waste haulers discharging sanitary waste to the Agency’s regional treatment plant shall pay all applicable fees relating to said discharge. Failure to pay any applicable fee on a timely basis after billing by the agency may result in suspension of the domestic waste hauler’s DWH permit.

B. For discharge, treatment, and disposal of sanitary waste, a domestic waste hauler shall pay a fee to the Agency to compensate the Agency for the costs of discharge, treatment, and disposal for various types of sanitary waste (measured in dollars per 1,000 gallons). The “fee for discharge” shall be posted on BBARWA’s website and/or available for inspection at the administrative offices of BBARWA. The treatment and

disposal costs shall be prorated for discharges less than or in excess of 1,000 gallons.

C. All domestic waste haulers will be required to submit an annual fee for the base cost of monitoring, as set forth on BBARWA's schedule of rates."

4. Findings. The Governing Board finds that there is a reasonable relationship between the amount of the Waste Disposal Fee and the cost of providing the service for which the Waste Disposal Fee is charged. This relationship is more fully documented in the Report. The Waste Disposal Fee shall not be used for any other purpose than that for which the Waste Disposal Fee is imposed. The Waste Disposal Fee is not imposed upon real property or upon persons as an incident of property ownership. The Waste Disposal Fee is imposed only as a condition of service upon the requesting of the Collecting Agency. The Waste Disposal Fee is based on reasonable estimates of the demand placed upon BBARWA in its role as a provider of regional wastewater services.

5. Prior Rates. All ordinances, resolutions or administrative actions by the Governing Board, or parts thereof that are inconsistent with any provision of this Resolution, are hereby superseded only to the extent of such inconsistency.

6. Validity. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, including any portion of the fee adopted herein, such invalidity shall not affect other provisions or applications of this Resolution, including any portion of the fee not held invalid, and to this end the provisions of this Resolution are declared to be severable.

7. Effective Date. This Resolution shall take effect immediately. The Waste Disposal Fees shall take effect as authorized herein.

ADOPTED, this 24th day of March, 2021.

James Miller, Chair of the Governing Board
of the Big Bear Area Regional Wastewater Agency

ATTEST:

I, Karyn Oxandaboure, Secretary of the Big Bear Area Regional Wastewater Agency, DO HEREBY CERTIFY, that the foregoing Resolution of the Governing Board of the Big Bear Area Regional Wastewater Agency, being Resolution No. R. 04-2021, was duly adopted at a regular meeting of the Governing Board held on the 24th day of March 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Karyn Oxandaboure, Secretary of the Governing Board
of the Big Bear Area Regional Wastewater Agency