

RESOLUTION NO. 6581(23)

**A Resolution of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Establishing New Rates and Charges for the
Collection and Disposal of Solid Waste**

WHEREAS, California Public Resources Code Section 40059 and Lompoc Municipal Code Section 8.04.160 authorizes the City Council of the City of Lompoc (City) to establish rates and charges for its Solid Waste Collection and Disposal System (System); and

WHEREAS, after review of relevant financial data, the Management Services Director, the Finance Services Division staff, and a Cost of Service Study dated February 16, 2023, performed by MSW Consultants (attached as Attachment 3 to the City Council's June 6, 2023 staff report on this item) (Cost of Service Study), have determined existing System rates and charges presently generate insufficient revenue to support and continue the prudent operations of the System for adequate health, safety, and sanitation of the public at existing levels; and

WHEREAS, staff has proposed certain changes to the System rates and charges and has given notice of the proposed new rates and charges as required by law; and

WHEREAS, a notice of the public hearing of the proposed changes to the System rates and charges was mailed to each rate payer and property owner not less than 45 days prior to the public hearing, in compliance with Section 6 of Article XIII-D of the Constitution of the State of California; and

WHEREAS, a duly-noticed public hearing for the proposed rate and charge increases was held before the City Council on June 6, 2023; and

WHEREAS, on June 6, 2023, the City Clerk advised the City Council ___ written protests of the proposal to raise collection rates were received prior to the hearing; and

WHEREAS, on June 6, 2023, the City Council received ___ written protests against the increase in collection rates submitted at the time of the public hearing; and

WHEREAS, the total number of written protests was less than 50% of the total number of protests that could legally be presented; and

WHEREAS, after hearing public testimony and staff's report and recommendations, the City Council has determined certain rates and charges for the City's Solid Waste Collection and Disposal System should be revised and amended.

**NOW, THEREFOR, THE CITY COUNCIL OF THE CITY OF LOMPOC, CALIFORNIA,
DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. General Findings. After hearing testimony, considering the evidence offered, and duly deliberating the matters presented, the City Council of the City of Lompoc finds and determines:

- a) The California Integrated Waste Management Act of 1989, is set forth at Public Resources Code Sections 40050, *et seq.* (Act).
- b) The goal of the Act is to improve the methods used to manage solid waste in the State of California by using source reduction, recycling, and composting strategies wherever and whenever feasible, before using environmentally safe land disposal of remaining wastes.
- c) The mission of the City's Solid Waste Division is to provide the residential and business communities of Lompoc with an integrated waste management system, which will protect landfill capacity, conserve natural resources, and promote waste management and effective recycling, in a safe, cost-effective and environmentally beneficial manner, while providing exceptional customer service.
- d) Pursuant to Public Resources Code Section 40059 and Lompoc Municipal Code Section 8.04.160, the City Council has the authority to establish rates and charges for its Solid Waste Collection and Disposal System.
- e) The proceedings related to the proposed increases in Solid Waste Collection and Disposal rates and charges have been duly-noticed in compliance with the Constitution of the State of California and other applicable laws.
- f) The findings and conclusions in the Cost of Service Study are hereby adopted and incorporated herein by this reference.
- g) The rates and charges set forth below are not discriminatory.
- h) The rates and charges set forth below are not excessive, as revenues from such rates and charges will not exceed the cost of providing Solid Waste services within existing service areas.
- i) The revenue generated by the rates and charges set forth below are expected to be sufficient to pay the current expenses of maintenance and operation of the Solid Waste System, to honor other City obligations dependent upon System revenues, and to allow the City to comply with Government Code 54515 and other applicable laws and regulations.

Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21080, subdivision (b)(8), and CEQA Guidelines Section 15273, the approval of this resolution is Statutorily Exempt from environmental review, as the rates and charges to be implemented are for the purposes of meeting the System's operating expenses as described in the Cost of Service Study; purchasing or leasing supplies, equipment and materials; meeting financial reserve needs and requirements; and funding previously approved capital projects, necessary to maintain service within existing service areas. In the alternative, the approval of this resolution is exempt from CEQA under CEQA Guidelines 15061(b)(3) because it can be seen with certainty there is no possibility the rate adjustments approved herein may have a significant effect on the environment.

SECTION 3. Proposition 218 Procedural Findings. The City Council has fully considered the rates and charges for the System's solid waste, recyclables and organics collection, transport and disposal services attendant to this resolution as set forth in Exhibits 1 through 10 attached hereto and applied the procedural requirements of Proposition 218 (Cal. Const. Art. XIID). Section 6 of Article XIID of the California Constitution sets forth notice, hearing, and protest requirements that have been applied to the System rates. To this end, the City Council has:

- a) Reviewed the information submitted herewith regarding the proposed System rate adjustments for all accounts, the parcels to which the proposed fee adjustment would apply, and the reasons and basis for the adjustment and the fees;
- b) Provided notice of the proposed System rate adjustments to the ratepayers and property owners for all parcels to which the proposed rate adjustment would apply in accordance with Article XIID of the California Constitution;
- c) Heard and received all eligible written protests to the rate adjustment;
- d) Taken and received oral and documentary evidence pertaining to the proposed rate adjustment; and
- e) Been fully informed of this matter; and
- f) The City Council finds that insufficient written protests were presented to prevent the proposed System rate schedules from being imposed.

SECTION 4. Proposition 218 Substantive Findings. Pursuant to Proposition 218, the City Council finds as follows:

- a) *Fee for Service Provided Only:* Revenues derived from the System fees may not be used for any purpose other than that for which the fees are imposed. The fees collected are used to pay for the refuse collection and disposal System services provided by the City to all residential and commercial customers, and the City's accrual of direct and unforeseen costs incurred as a result of:

1. Increased costs related to inflation, which inflationary adjustments have been calculated as presented in the Cost of Service Study;
 2. Increased costs associated with the implementation of Senate Bill (SB) 1383, which mandates organics recycling, heightened waste reporting, and significant capital outlays as described further in the Cost of Service Study. SB 1383 is the most significant waste reduction mandate adopted in California in the last 30 years. SB 1383's regulations apply to all persons and entities that generate organic materials, such as food scraps and plant trimmings;
 3. This conclusion is further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report and Cost of Service Study, all of which evidence is incorporated herein by this reference.
- b) *Fee not to Exceed Cost of Service:* Revenues derived from the System rates may not exceed the funds required to provide System services. On April 19, 2022, the City Council approved retention of MSW Consultants to conduct the Cost of Service Study. That Study includes a financial plan, a cost of service analysis, and a rate design analysis. The analyses found that the current structure of the City's collection rates needs to be modified to more accurately reflect the nexus between the cost of service and the fees charged to customers. The collection rates proposed in the Cost of Service Study are intended to modify the structure of the City's collection rates to match System costs to customer fees. This conclusion is further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report and Cost of Service Study, all of which evidence is incorporated herein by this reference.
- c) *Fee Proportionality.* The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to the parcel. To validate both the residential and commercial rate increases proposed, the City utilized MSW Consultants to conduct an analysis of the rate calculations, resulting in the Cost of Service Study. The System rates have been calculated to be reflective of the City's costs of providing service and proportional as between different ratepayer categories as required by Proposition 218. Differences as between the rates for commercial versus residential accounts are directly reflective of the different disposal and route operating costs of providing service to those respective account types (i.e., one ratepayer category is not subsidizing services for another ratepayer category). This conclusion is further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report and Cost of Service Study, all of which evidence is incorporated herein by this reference.

- d) *Other Findings*. Proposition 218 also requires that the fee or charge may not be imposed for a service unless (i) the service is actually used by, or immediately available to, the property, and (ii) the fee or charge is not imposed for general governmental services. Both these findings are met. Because the fees are paid directly to the City for System services (including organics recovery), the fees are (i) used directly by the City for its costs of making such services immediately available throughout the City, and (ii) are not otherwise allocated to other general governmental services. The System rates are deposited into a dedicated City Solid Waste enterprise fund. The City separately records its revenues and expenses for its System operations in the Solid Waste enterprise fund. The revenues of the Solid Waste enterprise fund are intended to fully cover the City's current and future System operating and capital costs. This conclusion is further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report and Cost of Service Study, all of which evidence is incorporated herein by this reference.

SECTION 5. Service Rates and Charges. Based upon the foregoing findings, the City Council hereby approves the monthly rates and charges and the effective dates, thereof, as set forth in Attachment one and in Exhibits 1 through 10 attached hereto, all of which are hereby incorporated in this Resolution by this reference.

SECTION 6. Collection. The City Council hereby directs the rates and charges established by this Resolution shall be billed and collected together with charges for the other utility services rendered by the City of Lompoc.

SECTION 7. Enforcement. In the enforcement of the collection of the rates and charges established herein, the City of Lompoc may use any available remedy at law or in equity; provided, however, that said rates and charges shall not be collected by means of the Santa Barbara County Assessor's roll of real property taxes, nor shall any delinquent charges be enforced by means of a lien on real property.

SECTION 8. Severability. If any provision of this resolution or its application to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this resolution that can be given effect without the invalid provision or application; and to this end, the provisions of this resolution are held to be severable. The City Council declares that it would have adopted this resolution regardless of the fact that one or more sections, subsections, clauses, or phrases may be determined to be invalid or unconstitutional.

SECTION 9. Effective Date. This Resolution is effective on the day of its adoption. Except as amended herein, all City Solid Waste Collection and Disposal System rates and charges previously in effect shall remain in full force and effect.

The foregoing Resolution was proposed by Council Member _____,
seconded by Council Member _____, and was duly passed and

adopted by the Council of the City of Lompoc at its regular meeting on June 6, 2023, by the following vote:

AYES: Council Member(s):

NOES: Council Member(s):

ABSENT: Council Member(s):

Jenelle Osborne, Mayor
City of Lompoc

ATTEST:

Stacey Haddon, City Clerk
City of Lompoc

Attachments: 1) Refuse Collection Rates
2) Landfill Rates and Tipping Fees
3) Exhibits 1-10

Exhibit 1 – Residential Collection Rates – Effective July 2023, 2024, 2025, 2026, 2027
Exhibit 2 – Commercial and Multi-Family Collection Rates – Effective July 2023 and July 2024
Exhibit 3 – Commercial and Multi-Family Collection Rates – Effective July 2025 and July 2026
Exhibit 4 – Commercial and Multi-Family Collection Rates – Effective July 2027
Exhibit 5 – Landfill Disposal Rates and Tipping Fees – Effective July 2023
Exhibit 6 – Landfill Disposal Rates and Tipping Fees – Effective July 2024
Exhibit 7 – Landfill Disposal Rates and Tipping Fees – Effective July 2025
Exhibit 8 – Landfill Disposal Rates and Tipping Fees – Effective July 2026
Exhibit 9 – Landfill Disposal Rates and Tipping Fees – Effective July 2027
Exhibit 10 – Special Events and Special Haul Charges – Effective July 2023

ATTACHMENT 1
REFUSE COLLECTION RATES

Effective July 1, 2023, the rates set forth in Exhibits 1 through 4 attached hereto, shall be charged for the collection (in City-supplied containers), removal, and disposal of garbage, rubbish and waste matter in the City.

A. Single Family Residential – Exhibit 1

Rates are based on size of refuse container. Service to include one each 95-gallon commingled and/or organics recycling container upon request, collected weekly.

For the purpose of this Resolution, “single-family residence” means a detached house, duplex, or triplex on a single assessor’s parcel.

B. Commercial and Multi-family – Exhibits 2 through 4

Service is provided in 65-, 95-, 300-, or 450-gallon containers, up to five times per week. Rates are based on size of refuse container(s) and frequency of collection, and include commingled and/or organics recycling container(s) and cardboard bin(s), upon request.

“Multi-family residences” include apartment houses, bungalows, complexes, condominiums, flats, and trailer parks.

C. Special Events and Special Haul Charges – Exhibit 10.

D. Adequate Service.

The City retains the right to place additional containers and provide additional collection/removal services if an owner fails to maintain adequate refuse containers and service. The City retains the right to bill the property owner or agent for those additional containers and collection/removal services.

E. Container Exchange.

When a container is delivered to a customer, the owner has 60 days, from the date of requesting service, to determine his/her container size and/or scheduling requirements. Thereafter, container exchanges more than once-per-year will be charged \$25.00.

F. Outside the City.

The charges for garbage and waste collection outside the City limits are 2.0 times the rates provided in this Resolution for the respective class of service.

G. Special Service.

The Utilities Director or their duly-authorized representative, at their discretion, may provide for the collection and removal of rubbish from any place or premises at times in addition to those when regular collection service is made available, or in a manner different from that customarily provided. Any such additional or different service shall be charged at the rate of \$40.00 per 15-minute intervals, not prorated.

The Utilities Director, or their duly-authorized representative, at their discretion, may provide for free dump service for non-profit organizations providing community clean up. Such service shall be arranged in advance and is limited to a maximum of two tons per event.

A vendor approved by the Utilities Director, or their duly-authorized representative, may service any customer that cannot be adequately serviced with the City's automated collection equipment.

H. Damaged Containers.

The City will replace containers damaged beyond normal wear and tear by the customer, with the customer charged for the cost of the new container. Container costs are established by the City's most current AB 1600 Fees (Impact Fees) Report.

I. Appliance and Tire Collection and Disposal.

Charge for collection by City crews and disposal of appliances and/or tires, from a commercial establishment, are as follows: The customer will be charged per Section H, above. In addition, the commercial establishment shall pay all rates and fees at the City of Lompoc Sanitary Landfill as set forth in Exhibits 5 through 9.

ATTACHMENT 2
LANDFILL RATES AND TIPPING FEES

Effective July 1, 2023, the charges set forth in Exhibits 5 through 9 shall be charged for the disposal of garbage, rubbish, waste matter, and recyclable materials (originating from the Lompoc Valley Watershed) at the City of Lompoc Sanitary Landfill.

A. Recyclables.

1. Recyclable materials include clean, separated organics (greenwaste/food scraps), woodwaste, concrete, and metals (other than appliances). All loads must be 100% clean with no exceptions.
2. Clean loads of separated cardboard may be accepted without charge at the discretion of the Utilities Director or their designee.
3. Clean loads of topsoil, if usable for cover material, may be accepted without charge at the discretion of the Utilities Director or their designee.
4. Uncontaminated loads of asphalt concrete, if deemed a beneficial use, may be accepted without charge at the discretion of the Utilities Director or their designee.

B. Appliances.

Appliances include air conditioners, refrigerators, freezers, washers, dryers, water heaters, metal dishwashers, or other similar items, that can be recycled.

C. Electronic Waste.

Clean loads of electronic waste may be accepted without charge at the discretion of the Utilities Director or their designee. Electronic waste includes consumer and business electronic equipment that is near or at the end of its useful life. Examples of electronic waste include, but are not limited to, cathode ray tubes (computer monitors and televisions), computers, printers, radios, VCRs, microwave ovens, cellular telephones, cordless telephones, and telephone answering machines.

D. Hard-to-Handle Materials.

Hard-to-handle materials include, but are not limited to, contaminated loads requiring special hauling, loads containing materials such as treated wood waste in accordance with California Health and Safety Code Sections 25230 through 25230.18, or non-friable asbestos properly wrapped in accordance with California Code of Regulations (CCR), Title 22, Section 66268.14.