

RESOLUTION NO. 2017-289

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE REPEALING RESOLUTION NO. 2010-118 AND AFFIRMING EXISTING FEES AND ADOPTING POLICY ASSOCIATED WITH TITLE 30 (CHAPTERS 30.50, 30.60, 30.70, AND 30.90) OF THE ELK GROVE MUNICIPAL CODE TITLED SOLID WASTE MANAGEMENT, EFFECTIVE DECEMBER 13, 2017

WHEREAS, Title 30 of the Elk Grove Municipal Code (EGMC) (the "Ordinance") for Solid Waste Management establishes that certain fees and policies shall be set by resolution of the City Council of the City of Elk Grove; and

WHEREAS, the City Council finds and declares that the commercial refuse hauler fees are established to fund the costs related to commercial hauler operations, and commercial waste generated in the City of Elk Grove, including, without limitation, the following costs:

- 1) General administration costs such as salaries, benefits, and department supplies attributable to administering the commercial refuse hauler regulations;
- 2) Administration, oversight, and enforcement of solid waste commercial refuse hauler contracts, agreements, policies, ordinances and the EGMC;
- 3) Implementation of various solid waste programs and services intended to meet the requirements of federal, state, and local laws (including the City's Source Reduction and Recycling Element, Household Hazardous Waste Element and Non-Disposal Facility Element) such as public education campaigns and programs targeting specific waste streams such as e-waste, organics, or hazardous waste;
- 4) A portion of the operational costs and debt service payments for the Special Waste Collection Center;
- 5) Costs associated with protecting and promoting the public health and welfare with respect to solid waste, including without limitation, putrescible wastes that may attract vectors, vermin and otherwise comprise a nuisance;
- 6) Any other solid waste related costs incurred by the City in accordance with law; and

WHEREAS, the City Council wishes to repeal Resolution No. 2010-118, in which the Commercial Refuse Hauler Fees were set, and replace with the fee schedule set forth herein; and

WHEREAS, Title 30 authorizes the City Council to establish, by resolution in accordance with the terms of the Ordinance, the amount of the commercial refuse hauler fee based on gross receipts; this Resolution establishes the fee schedule for determining the commercial refuse hauler fee (as authorized by EGMC Section 30.50.100); and

WHEREAS, Title 30 also authorizes the City Council to establish, by resolution in

accordance with the terms of the Ordinance, a different method for calculating gross revenue for clean-up companies; this Resolution establishes the method for determining the estimated gross revenue (as authorized by EGMC Section 30.50.110); and

WHEREAS, Title 30 also authorizes the City Council to establish, by resolution in accordance with the terms of the Ordinance, a fee for late payment of commercial refuse hauler fees and/or late receipt of monthly or quarterly reports from commercial haulers; this Resolution establishes the late fees payable to the City by commercial haulers (as authorized by EGMC Section 30.50.170); and

WHEREAS, Title 30 establishes a mandatory business recycling program and authorizes the City Council to establish, by resolution in accordance with the terms of the Ordinance, a fee for delinquent quarterly reports (related to business recycling) submitted to the City from commercial haulers; this Resolution establishes the delinquent report charge (as authorized by EGMC Section 30.60.130(C)); and

WHEREAS, Title 30 establishes a mandatory construction and demolition (C&D) debris recycling program and authorizes the City Council to establish, by resolution in accordance with the terms of the Ordinance, the project valuation for determining a Covered Project; this Resolution establishes the project valuation (as authorized by EGMC Section 30.70.020); and

WHEREAS, Title 30 authorizes the City Council to establish, by resolution in accordance with the terms of the Ordinance, the processing fee to accompany the Waste Management Plan for a Covered Project and all demolition projects; this Resolution establishes the processing fee (as authorized by EGMC Section 30.70.050(C)).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove under EGMC Section 30.50.100 (Obligations):

- 1) Resolution No. 2010-118 Repealed. Resolution No. 2010-118 is repealed in its entirety effective as of the date of this Resolution.
- 2) Commercial Refuse Hauler Fee. The City may charge and collect monthly commercial refuse hauler fees from each commercial hauler in an amount equal to a percentage of gross receipts as noted on the following table, at the time, in the form and manner, and as otherwise provided in EGMC Section 30.50.100:

% Diversion of Commercial / Industrial Solid Waste	Commercial Refuse Hauler Fee as a Percentage of Gross Receipts
30% or greater	10%
25% or greater but less than 30%	12%
20% or greater but less than 25%	14%
15% or greater but less than 20%	16%
10% or greater but less than 15%	18%
Less than 10%	20%

Commercial haulers may not separately itemize commercial refuse hauler fees in an amount greater than ten percent (10%) on their bills, invoices or other documentation that the commercial haulers distribute to their customers or to the general public.

The percentage of gross receipts will not be interpolated between the whole numbers indicated on the table. As an example, if the percent diversion of commercial/industrial solid waste is seventeen percent (17%) of collected tonnage, then the commercial refuse hauler fee is sixteen percent (16% of Gross Receipts).

Sample Calculations of the Commercial Hauler Refuse Fee:

	Hauler #1	Hauler #2	Hauler #3	Hauler #4
Hauler's Diversion Rate for Q1	31%	22%	17%	8%
Applicable Fee Rate for Q2	10%	14%	16%	20%
Total Gross Receipts Received from Customer #1	\$500	\$500	\$500	\$500
Total Commercial Hauler Refuse Fee Owed to City	\$50	\$70	\$80	\$100
Maximum Fee Amount That Can Be Itemized on Customer Bill	\$50	\$50	\$50	\$50
Net Revenue Retained by Hauler	\$450	\$430	\$420	\$400

These examples are provided only as a guide to demonstrate fee amounts due and the maximum amount that can be itemized on a customer bill in relation to gross receipts earned by a commercial hauler. Commercial haulers are not obligated to include commercial refuse hauler fees in their customer service charges, fees or rates.

Commercial haulers will calculate, on a quarterly basis, their diverted tonnage (as defined in subsection a(i) below), collected tonnage (as defined in subsection b below), and the percent of collected tonnage comprised of diverted tonnage, and these calculations may be corroborated by the City in accordance with subsection c below.

a) *Diversion Tonnage.* The amount of diverted commercial/industrial solid waste (diversion tonnage) is equal to:

- i. the tons of commercial/industrial solid waste that a commercial hauler collects in the City and delivers to a materials recovery facility, or a site or other facility that does not report disposed tonnage to the California Department of Resources Recycling and Recovery (CalRecycle) or other State of California board, department or agency, *minus*

ii. the tons of residue remaining after processing that commercial/industrial solid waste that a facility allocates to the City and reports to CalRecycle in compliance with disposal reporting requirements in accordance with applicable law.

b) *Collection Tonnage.* The amount of commercial/industrial solid waste that a commercial hauler collects in the City (collection tonnage) is equal to the aggregate amount of that commercial/industrial solid waste that the commercial hauler delivered to solid waste management facilities and that those solid waste management facilities report to CalRecycle in compliance with disposal reporting requirements under applicable law.

c) *Corroboration of Tonnages.* The commercial haulers will calculate and the City may corroborate, tonnages by written documentation acceptable to the City, including without limitation: weight tickets; invoices; bills of lading; receipts from recyclables transporters, shippers, brokers, beneficiators, remanufacturers and purchasers or other users; and disposal reports submitted to CalRecycle or other State of California boards, departments or agencies. All documentation is subject to an allocation adjustment in accordance with Section 1d of this Resolution if a commercial hauler commingles in a single waste collection vehicle or container, tonnage collected in the City with tonnage collected outside the City. Commercial haulers will provide the City with copies of documentation within seven (7) days of the City's direction to do so.

d) *Allocation of Commingled Materials.* If a commercial hauler commingles in a single waste collection vehicle the tonnage that the commercial hauler collected in the City with tonnage that the commercial hauler collected outside the City, then the commercial hauler will determine collection tonnage as follows:

The total weight of a collection vehicle's load in tons will be divided by:
a) the aggregate cubic yard capacity (commercial route capacity) of containers that a commercial hauler collects with that vehicle in the City, plus b) the aggregate cubic yard capacity (other route capacity) of containers that the commercial hauler collects with that vehicle outside the City based on its written records of customers' service, including customer service subscription orders and invoices. The conversion ratio for carts that have capacities measured in gallons rather than cubic yards is two hundred (200) gallons to one (1) cubic yard. The resulting average tons/cubic yard will be multiplied by the commercial route capacity.

Upon direction by the City, the commercial hauler will promptly supply the City with documentation supporting the allocation calculations, including route collection maps and sheets, and totals of containers by size and capacity. If the City disagrees with the allocation it may

correct the calculations. The commercial hauler will be bound by those corrections.

At its option, a commercial hauler may base any or all of its quarterly calculation of diverted tonnage and collected tonnage on either that quarter, or the preceding twelve (12) month period ending on the last day of that quarter. For example, the calculation can be based on: a) the quarter commencing January 1, and ending March 31, or b) the preceding twelve (12) month period commencing April 1 of the prior year, and ending March 31. In conjunction with submitting its calculation to the City, a commercial hauler must indicate whether a quarter or twelve (12) month period served as the basis of its calculation.

The quarterly calculation of diverted tonnage will be used to determine the quarterly diversion rate, which then determines the hauler fee for a future three-month period as detailed on the Rate Determination Schedule. Commercial haulers shall pay the commercial refuse hauler fee monthly on the first day of the third (3rd) month of the succeeding quarter, and the first (1st) and second (2nd) months of the next succeeding quarter. For example, if a commercial hauler's diversion of commercial/industrial solid waste is calculated to be twenty and two-tenths percent (20.2%) during the third (3rd) quarter (July 1 through Sept 30), then on the first day of: a) the third (3rd) month of the succeeding quarter (December, in this example), and b) the first (1st) and second (2nd) months of the next succeeding quarter (January and February, in this example), the commercial hauler will pay the City a commercial refuse hauler fee equal to fourteen percent (14%) of the commercial hauler's gross receipts (using the table above).

Calculation of the commercial refuse hauler fees will be truncated at two (2) decimal places. Fractions less than one cent (\$0.01) will be rounded up to the next one cent (\$0.01).

The City has awarded exclusive rights for the collection of all residential solid waste to the contracted residential hauler. Any registered commercial hauler can provide clean-up services to a residential customer for a fee but cannot haul away residential trash from that property for a fee except as specified in EGMC Section 30.30.090.

- 2) Collection of the Fee. Commercial haulers shall pay the commercial refuse hauler fee as defined in EGMC Section 30.50.140.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of Elk Grove under EGMC Section 30.50.110 (Hauler Fees for Clean-Up Companies):

- 1) Gross Revenue Calculation for Clean-Up Companies. For those companies whose primary business is the provision of clean-up services, including construction clean-up services, the gross commercial solid waste collection revenue subject to the commercial refuse hauler fees will be calculated using

One Hundred Five dollars (\$105.00) per ton (two thousand pounds) for commercial solid waste that is collected for disposal at the origination site in Elk Grove.

- 2) Collection of the Fee. Clean-up companies shall pay the commercial refuse hauler fee as defined in EGMC Section 30.50.140.

NOW, THEREFORE, BE IT FURTHER RESOLVED AND DIRECTED by the City Council of the City of Elk Grove under EGMC Section 30.50.170 (Late Fees):

- 1) Fees for Late Payments and Reports. If a commercial hauler does not fully and timely pay its commercial refuse hauler fee in accordance with EGMC Section 30.50.140 or does not submit its monthly and quarterly reports in accordance with EGMC Section 30.50.190, then the hauler must pay a late payment penalty in an amount equal to Two dollars (\$2.00) per day for each business day (Monday through Friday) the payments and/or reports are late.
- 2) Late Fees as a Result of a Professional Audit. As a result of a professional audit, if it is determined that a commercial hauler did not fully and timely pay its commercial refuse hauler fees in accordance with EGMC Section 30.50.140, the commercial hauler shall pay a late fee in an amount equal to two percent (2%) of the dollar (not an incremental two percent) on the amount of unpaid commercial refuse hauler fees that are late as determined by the audit performed, plus interest equal to one and one-half percent (1.5%) for each month in which the commercial refuse hauler fees are late, or the maximum amount permitted by law.
- 3) Collection of the Fee. Commercial haulers must pay any late fees associated with commercial refuse hauler fees in the same manner as commercial refuse hauler fees defined in EGMC Sections 30.50.140(B) and (C).

NOW, THEREFORE, BE IT FURTHER RESOLVED AND DIRECTED by the City Council of the City of Elk Grove under EGMC Section 30.60.130(C) [Reporting]:

- 1) Delinquent Report Charge. If a commercial hauler's quarterly report is not filed by the due date specified in EGMC Section 30.60.130(B), the report shall be deemed delinquent and the commercial hauler shall pay to the City a delinquent report charge in the amount of Fifty dollars (\$50.00) per day. If the report remains delinquent for more than fifteen (15) days, the commercial hauler shall pay to the City a delinquent report charge in the amount of One Hundred dollars (\$100.00) per day.
- 2) Collection of the Fee. Commercial haulers shall pay delinquent report charges associated with business recycling, in the same manner as commercial refuse hauler fees defined in EGMC Sections 30.50.140(B) and (C).

NOW, THEREFORE, BE IT FURTHER RESOLVED AND DIRECTED by the City Council of the City of Elk Grove under EGMC Chapter 30.70 [Construction and Demolition (C&D) Debris Reduction, Reuse and Recycling]:

- 1) Covered Project. A covered project shall be defined as all additions, remodels or new construction projects within the City and all demolition projects with a total cost equal to, or in excess of, the established threshold, initially hereby set at project valuation of Seventy Five Thousand dollars (\$75,000.00), and all demolition projects regardless of value.
- 2) C&D Processing Fee. The City will impose a C&D processing fee to fund the construction and demolition (C&D) recycling program, which will be 0.04% of project valuation. This would impose a One Hundred dollar (\$100.00) C&D processing fee on a Two Hundred Fifty Thousand dollar (\$250,000.00) project, which is the minimum amount. A Four Million dollar (\$4,000,000.00) project would incur an Eight Hundred dollar (\$800.00) C&D processing fee, and the fee would be capped at that level. For all demolition projects, the minimum fee is Forty dollars (\$40.00).
- 3) Collection of the Fee. The C&D processing fee for the administration of the C&D Debris Recycling program will be assessed at the time of application for a building permit. Building Safety and Inspection and Integrated Waste will cover their administrative costs to administer the program with the fee.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of December 2017.




STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2017-289**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

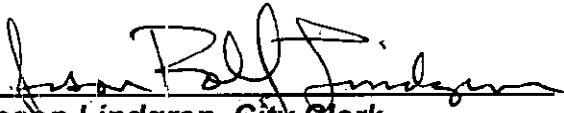
I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 13, 2017 by the following vote:

AYES: **COUNCILMEMBERS:** *Ly, Suen, Detrick, Nguyen*

NOES: **COUNCILMEMBERS:** *Hume*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



**Jason Lindgren, City Clerk
City of Elk Grove, California**