

## **RESOLUTION NO. 2010-118**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE REPEALING RESOLUTION NOS. 2003-148, 2006-13, AND 2006-177 AND SETTING FEES AND ADOPTING POLICY ASSOCIATED WITH TITLE 30 (CHAPTERS 30.50, 30.60, 30.70, AND 30.90) OF THE ELK GROVE MUNICIPAL CODE ENTITLED SOLID WASTE MANAGEMENT, EFFECTIVE JULY 1, 2010**

**WHEREAS**, the City Council of the City of Elk Grove adopted Ordinance No. 10-2010 of the Elk Grove Municipal Code (EGMC) on May 12, 2010, (the "Ordinance") for Solid Waste Management; and

**WHEREAS**, the Ordinance authorizes the City Council to establish, from time to time by resolution in accordance with the terms of the Ordinance, an elective fee for the City's Police Department to perform an annual vehicle inspection for commercial haulers, this Resolution establishes the elective vehicle inspection fee (as defined in EGMC Section 30.50.070); and

**WHEREAS**, the Ordinance authorizes the City Council to establish commercial refuse hauler fees payable to the City by commercial haulers the City Council finds and declares that the commercial refuse hauler fees are established to fund the costs, including without limitation, of:

- 1) Administration and enforcement of solid waste contracts, ordinances and the EGMC;
- 2) Implementation of solid waste programs required by law (including the City's Source Reduction and Recycling Element, Household Hazardous Waste Element and Non-Disposal Facility Element);
- 3) Mitigation of infrastructure impacts related to solid waste program implementation, including supporting a program to handle hazardous waste generated by conditionally exempt generator of hazardous wastes;
- 4) 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;
- 5) Any other costs incurred by the City in accordance with law; and

**WHEREAS**, the City Council wishes to repeal Resolution Nos. 2003-148, 2006-13, and 2006-177, in which the Commercial Refuse Hauler Fees were set; and

**WHEREAS**, the Ordinance authorizes the City Council to establish, from time to time 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 sliding scale for determining the commercial refuse hauler fee (as defined in EGMC

Section 30.50.100); and

**WHEREAS**, the Ordinance authorizes the City Council to establish, from time to time 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 (defined in EGMC Section 30.50.110); and

**WHEREAS**, the Ordinance authorizes the City Council to establish, from time to time 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 defined in EGMC Section 30.50.170); and

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

**WHEREAS**, the Ordinance establishes a mandatory construction and demolition (C&D) debris recycling program and authorizes the City Council to establish, from time to time by resolution in accordance with the terms of the Ordinance, the project valuation for determining a covered project, this Resolution establishes the project valuation (defined in EGMC Section 30.70.020); and

**WHEREAS**, the Ordinance authorizes the City Council to establish, from time to time 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 [defined in EGMC Section 30.70.050(C)]; and

**WHEREAS**, the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling* (Exhibit E), dated July 1, 2010, and developed for use by the City's Planning Department and Integrated Waste Division to provide recycling and waste collection requirements for all residential and commercial building projects in the City, and the *Guidelines* may be amended by resolution from time to time (defined in EGMC Section 30.90.010);

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Elk Grove under EGMC Section 30.50.070 (Vehicle Inspections):

- 1) Elective Vehicle Inspection Fee. All commercial haulers with either a valid registration or a binding franchise with the City must have their solid waste vehicles that are driven in the City inspected annually. Inspections can be conducted by either the Environmental Compliance Division of the

Sacramento County Environmental Management Department, or the California Highway Patrol (BIT Inspection), or the City of Elk Grove Police Department. Should the authorized or franchised hauler elect to have the City of Elk Grove Police Department perform the vehicle inspection, a fee of One Hundred dollars (\$100.00) per vehicle will be imposed.

- 2) Collection of the Fee. The elective vehicle inspection fee will be collected by the City of Elk Grove Finance Department for the Elk Grove Police Department.
- 3) Effective Date. This Resolution shall take effect on July 1, 2010.

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

- 1) Resolution Nos. 2003-148, 2006-13, and 2006-177 Repealed. Resolution Nos. 2003-148, 2006-13, and 2006-177 are repealed in their 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:

<b>% Diversion of Commercial / Industrial Solid Waste</b>	<b>% Commercial Refuse Hauler Fee</b>
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%).

Commercial haulers will calculate, on a quarterly basis, their diverted tonnage (as defined in Section 2a below), collected tonnage (as defined in Section 2b

below), and the percent of collected tonnage comprised of diverted tonnage, and these calculations may be corroborated by the City in accordance with Section 2c 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 Integrated Waste Management Board (CIWMB) 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 the CIWMB 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 the CIWMB 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 the CIWMB or other State of California boards, departments or agencies. All documentation is subject to an allocation adjustment in accordance with Section 2d 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 (Exhibit A). Commercial haulers shall pay the commercial refuse hauler fee monthly on the first day of the third (3<sup>rd</sup>) month of the succeeding quarter, and the first (1<sup>st</sup>) and second (2<sup>nd</sup>) 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 (3<sup>rd</sup>) quarter (July 1 through Sept 30), then on the first day of: a) the third (3<sup>rd</sup>) month of the succeeding quarter (December, in this example), and b) the first (1<sup>st</sup>) and second (2<sup>nd</sup>) 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 three (3)

decimal places. Fractions less than One cent (\$0.01) will not be rounded up to the next One cent (\$0.01). Should commercial haulers choose to include amounts equal to the commercial refuse hauler fee in their charges to their customer, an example follows with a calculation of a hypothetical invoice for a customer service charge, fee or rate of Five Hundred dollars (\$500.00):

Commercial hauler's customer service charge, fee or rate divided by [100% minus Commercial Refuse Hauler Fee %] = amount commercial hauler invoices customer

\$500 / [100% - 10%] = amount commercial hauler invoices customer

\$500 / 0.90 = amount commercial hauler invoices customer

\$555.56 = amount commercial hauler invoices customer

In this example, the amount of commercial refuse hauler fees that the commercial hauler pays to the City would be as follows:

\$555.56 x 10% = \$55.56 (assuming a commercial refuse hauler fee of 10%).

This example is provided only as a guide and does not obligate commercial haulers to include commercial refuse hauler fees in their customer service charges, fees or rates. How commercial haulers collect their customer service charges, fees or rates is the decision of the commercial hauler and as may be agreed upon by the commercial hauler and their customers.

The City has awarded exclusive rights to the contracted residential hauler for the City of Elk Grove. 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. The only exceptions are: (1) If a roll-off box/bin is dropped in a resident's driveway by a registered commercial hauler, solid waste can then be placed in that box/bin and hauled away by the hauler; (2) If the residential property is in foreclosure and is bank-owned, the solid waste from that property is temporarily considered "commercial" waste until it is once again owned and/or occupied by an Elk Grove resident. Any registered commercial hauler can provide clean-up and trash hauling services at a bank-owned, residential property; and (3) If the properly licensed business generates trash at the customer's residence as a result of the primary service it provides, it can then haul away the generated solid waste (i.e. landscaper, home repairperson, roofer, etc.).

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

Form, the Quarterly Revenue and Diversion Report Form, and the 12-month Quarterly Revenue and Diversion Report Form, are included as Exhibits B, C, and D.

- 4) Effective Date. This Resolution shall take effect on July 1, 2010. For the first six months of this year, January 1 through June 30, 2010, the commercial refuse hauler fee will remain at the calculated rates based on the sliding scale that was previously set in Resolution No. 2006-13.

**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.
- 3) Effective Date. This Resolution shall take effect on July 1, 2010.

**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).
- 4) Effective Date. This Resolution shall take effect on July 1, 2010.

**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).
- 3) Effective Date. This Resolution shall take effect on July 1, 2010.

**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 with a total cost equal to, or in excess of, the established threshold, initially hereby set at project valuation of Two Hundred Fifty Thousand dollars (\$250,000.00), 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.



4) Effective Date. This Resolution shall take effect on July 1, 2010.

**NOW, THEREFORE, BE IT FURTHER RESOLVED AND DIRECTED** by the City Council of the City of Elk Grove to adopt the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling* policy document:

1) Purpose. The *Space Allocation and Enclosure Design Guidelines for Trash and Recycling* (Exhibit E), dated July 1, 2010, are adopted for use in establishing the recycling and waste collection requirements for all developments and significant remodels in the City.

2) Effective Date. This Resolution shall take effect on July 1, 2010.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 9<sup>th</sup> day of June 2010.

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SOPHIA SCHERMAN, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
JASON LINDGREN, INTERIM CITY CLERK

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SUSAN COCHRAN, CITY ATTORNEY