

RESOLUTION NO. 2019-260

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING RESOLUTION NO. 2017-289, AND APPROVING 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 RELATED
TO THE METHODOLOGY USED TO DETERMINE COMMERCIAL HAULER FEES**

WHEREAS, Title 30 of the Elk Grove Municipal Code (EGMC) 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 (nonresidential) 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. 2017-289, in which the Commercial Refuse Hauler policies were set, and replace said Resolution with the policies set forth herein; and

WHEREAS, Title 30 authorizes the City Council to establish, by resolution, 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, an alternative 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, a fee for late payment of commercial refuse hauler fees and/or late submittal 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, 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, 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, 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) hereby:

- 1) Repeals Resolution No. 2017-289. Resolution No. 2017-289 is repealed in its entirety effective as of the date of this Resolution.
- 2) Sets the 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 Q4	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, 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 d 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:

- 1) the aggregate cubic yard capacity (commercial route capacity) of containers that a commercial hauler collects with that vehicle in the City, plus
- 2) 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.

If a commercial hauler did not collect or divert any waste during a given reporting period, the Commercial Refuse Hauler Fee as a Percentage of Gross Receipts from the most recently completed quarter in which the Commercial

Refuse Hauler Fee applied will be assigned to the next quarter in which the Commercial Hauler generates revenue for which fees are due.

At its option, a commercial hauler may base any or all of its quarterly calculation of Diversion Tonnage and Collection Tonnage on either the actual data for that quarter, or data for 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. If the hauler opts to use a twelve (12) month period for any given reporting period, the actual Diversion Tonnage and Collection Tonnage shall be reported in addition to the twelve (12) month data.

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 below, with the exception of Quarter 4 of 2019. The quarterly diversion rate achieved in Quarter 4 of 2019 shall determine the applicable Commercial Hauler Fee Rate for the months of March, April, May, and June 2020.

Rate Determination Schedule

Reporting Period	Period in Which Applicable Fee Rate Applies
Q1	Q3
Q2	Q4
Q3	Q1 (following year)
Q4	Q2 (following year)

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 annual 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; and

- 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).

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 construction and demolition (C&D) processing fee to fund the C&D recycling program, which will be 0.04% of project valuation. There is no fee for construction projects valued less than Two Hundred Fifty Thousand dollar (\$250,000.00); projects valued at Two Hundred Fifty Thousand dollar (\$250,000.00) or above shall be subject to a minimum fee of one hundred dollars (\$100.00) and a maximum fee of Eight Hundred dollars (\$800.00). For demolition projects, the minimum fee is Forty dollars (\$40.00) and there is no maximum fee.
- 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 November 2019




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. 2019-260

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 November 13, 2019 by the following vote:

AYES: COUNCILMEMBERS: Ly, Hume, Nguyen, Suen

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Detrick



Jason Lindgren, City Clerk
City of Elk Grove, California