

ORDINANCE NO. 10-2010

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING ELK GROVE MUNICIPAL CODE CHAPTERS 6.06 AND 6.10 AND
ADOPTING TITLE 30 REGARDING SOLID WASTE MANAGEMENT**

WHEREAS, the City is responsible for protection of public health and the environment; and

WHEREAS, the City is not only authorized but required to provide solid waste handling services to its citizens under the provisions of the California Integrated Waste Management Act (sometimes referred to as "AB 939"), Public Resources Code (PRC) Section 40000 et seq.; and

WHEREAS, through enactment of the California Integrated Waste Management Act, the State has directed the City to promote recycling and to maximize the use of feasible source reduction, recycling and composting options in order to reduce the amount of solid waste that must be landfilled, and the City has a need to charge appropriate fees for a resumption of suspended solid waste refuse; and

WHEREAS, the City is potentially liable for solid waste generated in the City; and

WHEREAS, the City is therefore prudent to provide the terms and conditions of its solid waste management through the adoption of an ordinance of the Elk Grove Municipal Code.

NOW THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose and Authority

Under California Constitution Article XI, Section 7, the City of Elk Grove may enact ordinances to preserve and protect public safety, health and welfare. To this end, the City Council of the City of Elk Grove has taken on a comprehensive revision of Chapters 6.06 and 6.10 of the Elk Grove Municipal Code and recodified the revision as Title 30, Solid Waste Management.

Section 2: Repeal of Chapter 6.06

The City Council hereby repeals Elk Grove Municipal Code Chapter 6.06 in its entirety.

Section 3: Repeal of Chapter 6.10

The City Council hereby repeals Elk Grove Municipal Code Chapter 6.10 in its entirety.

Section 4: Adoption of New Title 30

The City Council hereby adopts Title 30 to read as follows:

**TITLE 30
SOLID WASTE MANAGEMENT**

Chapters:

30.10 General Provisions

30.20 Residential Customer

30.30 Residential Hauler

30.40 Non-Residential Customer

30.50 Non-Residential Haulers

30.60 Business Recycling

30.70 Construction and Demolition (C&D) Debris Reduction, Reuse and Recycling

30.80 Solid Waste Facilities

30.90 Space Allocation and Enclosure Design Guidelines for Trash and Recycling

Chapter 30.10

GENERAL PROVISIONS

Sections:

30.10.010 Definitions.

30.10.020 Ownership of solid waste.

30.10.030 State exemptions.

30.10.040 Dumping or littering.

30.10.050 Hazardous materials.

30.10.060 Burning or burying of solid waste prohibited.

30.10.070 Scavenging prohibited.

30.10.080 Promulgation.

30.10.090 Appeals.

30.10.100 Violations, enforcement, actions and remedies.

30.10.110 Notices.

30.10.120 Haulers.

30.10.130 Transportation requirements.

30.10.140 Disposal.

30.10.010 Definitions.

For purposes of Title 30, unless otherwise provided elsewhere in this Title, the following words are defined as follows:

A. "A" Definitions.

1. "AB 939" means the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 et seq., and as may be amended from time to time.
2. "Airborne Waste" means solid waste that is likely to become airborne when discarded.
3. "Approved Sharps Container" means an approved container designed to collect "sharps waste" which was home-generated and needs proper disposal.
4. "Authorized Hauler" means a commercial solid waste hauler that has been authorized by the City to haul solid waste within City limits. An "authorized hauler" may also collect, haul, or transport recyclable materials in the City.
5. "Authorized Recycler" means any person or business entity that lawfully collects, transports, accepts for recycling, or otherwise processes recyclable materials from businesses, non-residential properties, multi-family properties, or single-family residential properties managed by an association or other organization for financial gain or profit, and has been granted a Certificate of Operation from the Sacramento Regional Solid Waste Authority or the City Manager.

B. "B" Definitions.

1. "Building Safety and Inspection (BSI)" means the City's Building Safety and Inspection Division.
2. "Business" means: 1) a commercial entity, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, or corporation that is organized for financial gain or profit, including but not limited to, offices, retail stores, markets, manufacturing facilities, warehouse and distribution facilities, restaurants, motels and hotels, theaters, medical offices,

and gas station and automotive facilities; and 2) not-for-profit organizations, including but not limited to, churches, hospitals, and social service organizations.

C. "C" Definitions.

1. "C&D Debris" means used or discarded materials resulting from construction, renovation, remodeling, repair or demolition operations on any pavement, house, commercial building, or other structure and such other materials as may be removed during the normal clean-up process of such construction, renovation, remodeling, repair, or demolition operations. "C&D debris" includes both "mixed construction and demolition debris" and "source-separated recyclable construction and demolition material." "C&D debris" also refers to construction and demolition debris generated during the course of activities at a covered project.
2. "California Integrated Waste Management Act" means the Act codified in California Public Resources Code Section 40000 et seq., and as may be amended from time to time.
3. "Cart" means a wheeled receptacle that can be emptied by either semi- or fully-automated vehicles.
4. "CCR" means the California Code of Regulations.
5. "Certificate of Operation" means the license that an authorized recycler shall obtain from the Sacramento Regional Solid Waste Authority or the City Manager before it may collect recyclable materials within City boundaries.
6. "Certified C&D Sorting Facility" means a facility for recovering recyclable materials from mixed construction and demolition waste that is certified, and maintains all the terms and conditions of certification, by the Sacramento Regional Solid Waste Authority or the City Manager.
7. "CIWMB" means the California Integrated Waste Management Board, now known as the California Department of Resources Recycling and Recovery (CalRecycle). CalRecycle is a department within the California Natural Resources Agency that administers programs formerly managed by the California Integrated Waste Management Board and the Division of Recycling.
8. "Clean-Up Company" means a hauling company that provides a range of services, including but not limited to, cleaning up a residential or commercial property or a construction site, source-separating recyclables at a property or construction site, the hauling of solid waste or recyclables, and/or the hauling of construction and demolition (C&D) debris from a property or construction site.

9. "Collection," "Collect," and "Collecting" means the act of collecting and removing solid waste or recyclable materials at the place of generation by any means, including but not limited to, a dumpster truck; roll-off truck; side-load, front-load or rear-load truck; or a trailer.
10. "Commercial Customer" or "Non-Residential Customer" means a business, non-residential, multi-family property, or single-family residential property managed by an association or other organization owner or generator who contracts for solid waste removal services and enters into a service agreement with a registered or franchised commercial hauler, or authorized recycler for recycling services. Where several businesses, non-residential properties, multi-family properties, or single-family residential properties managed by an association or other organization share garbage containers and service, "commercial customer" or "non-residential customer" refers only to the party whom enters into a contract for solid waste collection services.
11. "Commercial Hauler" or "Non-Residential Hauler" means any person who collects, hauls, or transports commercial solid waste for a fee by use of any means, including but not limited to, a dumpster truck; roll-off truck; side-load, front-load or rear-load truck; or a trailer.
12. "Commercial Solid Waste" means all solid waste as defined in EGMC Section 30.10.010(S)(7), generated by commercial, non-residential, and industrial sources, multi-family properties of five (5) or more units, single-family residential properties managed by an association or other organization, and residential remodel and/or construction removal sources, and including mixed construction and demolition debris.
13. "Construction" means the building of any facility or structure or any portion thereof, including any tenant improvements to an existing facility or structure.
14. "County" means the County of Sacramento.
15. "Covered Generator" means all businesses, non-residential properties, multi-family properties, and single-family residential properties that are managed by an association or other organization, that utilize a container that generates more than four cubic yards (4 yd³) per week. A covered generator may include a tenant, property owner, property manager, or other generator, and is dependent on whoever executes the contract(s) for solid waste removal and recycling collection services.
16. "Covered Project" means any project that exceeds the established project valuation threshold. "Covered project" shall not include:

- a. Activities performed in response to an emergency, such as a natural disaster;
or
- b. Activities that contain significant amounts of materials that cannot be disposed of in Class II sanitary landfills described in 27 California Code of Regulations 20250, and as may be amended from time to time.

D. "D" Definitions.

- 1. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.
- 2. "Department of Resources Recovery and Recycling (CalRecycle)" CalRecycle is officially known as the Department of Resources Recycling and Recovery; CalRecycle is a department within the California Natural Resources Agency and administers programs formerly managed by the State's Integrated Waste Management Board and Division of Recycling.
- 3. "Designated Recyclable Material" or "Designated Recyclables" means material, as designated by the City Manager that is required to be separated by covered generators from solid waste prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products.
- 4. "Discard" means to throw out, including to dump, litter, spill, sweep, brush, deposit or otherwise cast off.
- 5. "Dispose" or "Disposal" means disposal as defined in California Public Resources Code Section 40192(b), and as may be amended from time to time: the management of solid waste through landfill disposal or transformation at a permitted solid waste facility.
- 6. "Divert" means to use material for any purpose other than disposal in a landfill.

E. "E" Definitions.

- 1. "E-Waste" means waste that is powered by batteries or electricity and that has a circuit board, including but not limited to, televisions, microwaves, and personal electronics.

F. "F" Definitions.

- 1. "Franchise" means a residential or commercial solid waste collection franchise issued to a hauler by the City pursuant to this Title.

2. “Franchised Hauler” or “Franchisee” means a residential or commercial solid waste hauler or hauler possessing a valid franchise issued by the City pursuant to this Title. A “franchised hauler” or “franchisee” may also collect, haul, or transport recyclable materials.

G. “G” Definitions.

1. “Garbage” means putrescible solid waste that can rapidly decompose and become a nuisance characterized by decay, odors, gases, and attraction of vectors, and other offensive conditions, such as foodstuffs, offal and dead animals.
2. “Generator” means a person who creates solid waste or recyclable materials.
3. “Greenwaste” means organic solid waste that will decompose or putrefy generated from landscapes, including garden and yard waste such as grass, leaves, weeds, brush, bedding straw, and trees (including Christmas trees) and branches, clippings, prunings and trimmings from trees, and any other organic waste designated by the City Manager.

H. “H” Definitions.

1. “Haul” means to transport or remove.
2. “Hauler” (see “commercial hauler” and “residential hauler”)

I. “I” Definitions.

1. “Implementation Period” means the period of time between the effective date of this Title and December 31, 2010.
2. “Integrated Waste (IW)” means the City’s Integrated Waste Division.

J. Reserved for future use.

K. Reserved for future use.

L. Reserved for future use.

M. “M” Definitions.

1. “Medical Waste” or “Infectious Waste” means those wastes identified in California Health and Safety Code Section 25117.5, and as may be amended from time to time.

2. "Mixed C&D Debris" means construction and demolition debris that includes commingled recyclable construction and demolition materials and non-recyclable construction and demolition debris generated from a project.
3. "Multi-Family Property" means any multi-family dwelling building or group of buildings that contain five (5) or more individual dwelling units located on a single tax lot. Multi-family complexes include, but are not limited to, apartment complexes, mobile home parks, senior housing/care facilities, and condominium complexes.

N. "N" Definitions.

1. "Non-Residential Customer" (see "commercial customer")
2. "Non-Residential Hauler" (see "commercial hauler")
3. "Non-Residential Property" means real property that is located in the City and used primarily for: 1) commerce, including but not limited to, offices, stores, restaurants, motels, hotels, recreational vehicle parks, theaters, and service stations; 2) not-for-profit organizations; and 3) institutional uses, including churches and hospitals. The term non-residential property shall not include any residential units or undeveloped land.

O. "O" Definitions.

1. "Owner" means one having ownership interest, and may also mean the person who owns a business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization. An owner may also be a generator.

P. "P" Definitions.

1. "Permit" means any permit issued by the City pursuant to its zoning, planning, building, electrical, mechanical or plumbing code.
2. "Permit Applicant" means any person who must secure a permit for a covered project.
3. "Permit Application Packet" means the collection of information and blank forms necessary to submit a complete application for a building permit to Building Safety and Inspection for construction and demolition related activities, including but not limited to, building, construction, deconstruction, demolition, excavation, grading improvement, reconstruction, remodeling, renovation, repair or any activity related to any of these activities. The "permit application packet" includes a Waste Management Plan that shall be submitted to Building Safety and

Inspection by the project manager or person to whom the permit will be issued, and also a Waste Log that shall be submitted to Integrated Waste.

4. "Permittee" means any natural person, business, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, public or private corporation, or any other entity whatsoever who applies to, or receives from, the City, applicable permits to undertake any construction, demolition, or renovation project in the City.
5. "Premise" means a tract or parcel of land located in the City with or without habitable buildings or appurtenant structures.
6. "Project" means any activity which requires a building permit from the City (the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, wiring, plumbing, use, height, area and maintenance of all buildings and structures within the City).
7. "Project Valuation" means the total construction valuation of labor and materials for the construction, demolition, or renovation project as calculated by the City.
8. "PRC" means the California Public Resources Code.

Q. Reserved for future use.

R. "R" Definitions.

1. "Recyclable C&D Material" means used or discarded material resulting from construction, demolition or renovation, including but not limited to remodeling, repair, or demolition operations, on any pavement, sidewalk, street, roadway project, bridge, house, commercial building, utilities or any other facility, structure or improvement, that are designated by the City Manager to be diverted from landfills and returned to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.
2. "Recyclable Material" or "Recyclables" means material which has been retrieved or diverted from disposal or transformation for the purpose of recycling, composting or salvage. This definition shall include, but not be limited to, corrugated cardboard, newspaper, phone books, junk mail, magazines, ferrous metals, nonferrous metals, recyclable glass (including redemption glass), mixed metals, non-recyclable glass, aluminum (including redemption aluminum), and No. 1 (Polyethylene Terephthalate – PET) and No. 2 (High Density Polyethylene – HDPE) plastics.

3. "Recyclable Materials Container" means any box, tub, cart, or other container. Recycling materials containers shall be approved by the City Manager.
4. "Recycle," "Recycling" and "Recycled" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise be disposed and returning them for use or reuse in the form of raw materials for new, used or reconstituted products that meet the quality standard necessary to be used in the market place. "Recycling" does not include transformation as defined in California Public Resources Code Section 40201, and as may be amended from time to time.
5. "Recycler" means any person or business entity that lawfully collects recyclable material.
6. "Recycling Facility" means those facilities or operations that receive, process, and transfer to market recyclable materials that have been source-separated from the solid waste stream.
7. "Recycling Plan" means the plan to be presented to all covered generators by their registered or franchised commercial hauler to document understanding of the requirements of business recycling and to record the selected compliance option for each designated recyclable material.
8. "Refuse" means the following:
 - a. Non-putrescible solid waste, often referred to as "rubbish", such as paper, cardboard, grass clippings, tree or shrub trimmings, wood, bedding, crockery, rubber tires, construction waste and similar waste materials, rubbish and garbage; and
 - b. Putrescible solid waste often referred to as "garbage."
9. "Removal" means the act of removing solid waste or recyclables from the place of waste generation.
10. "Renovation" means any change, addition, or modification in an existing structure.
11. "Resident" means the owner, occupant, manager or other person in possession, charge or control of a residential premise.
12. "Residential" refers to premises that contain four (4) or fewer dwelling units.
13. "Residential Hauler" means a person who is authorized by the City to collect solid waste from residential premises.

14. "Reuse" means further or repeated use of materials.
15. "Roll-off container" or "debris box" or "drop box" means a metal container, of three cubic yard (3 yd³) to forty cubic yard (40 yd³) capacity, capable of being mechanically loaded onto a collection vehicle for transport to a disposal facility.

S. "S" Definitions.

1. "Sacramento Regional Solid Waste Authority (SWA)" means the joint powers authority of Sacramento County and the City of Sacramento.
2. "Scavenging" refers to the uncontrolled or unauthorized removal of solid waste or recyclables from a cart, bin, or receptacle.
3. "Self-Haul" means the hauling for disposal and/or recycling of any solid waste by the same person who generated it.
4. "Service Agreement" means a written agreement between a registered or franchised commercial hauler, or authorized recycler, and a covered generator concerning the collection of designated recyclable material.
5. "Sharps" means any item having corners, edges, or projections capable of cutting or piercing the skin for medical purposes.
6. "Single Family Residential Properties" means all individual residential dwelling units and complexes that are located on a single tax lot and managed by an association or other organization.
7. "Solid Waste" means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. Solid waste does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with section 25800) of Division 20 of the Health and Safety Code, and as may be amended from time to time, or medical waste. Solid waste does not include recyclable material set-out for separate collection for the purposes of recycling and that are not landfilled.
8. "Solid Waste Handling" means all or a portion of the following:
 - a. Solid waste handling as defined in Public Resources Code Section 40195, and as may be amended from time to time, and

b. Solid waste disposal as defined in Public Resources Code Section 40192, and as may be amended from time to time.

9. "Solid Waste Receptacle" means any bin, automatic lift container or any other type of receptacle used for the deposit, storage, collection or transport of garbage, litter, junk, debris, refuse, swill, rubbish, waste matter, putrescible waste, hazardous waste, infectious waste, recyclable material, or garden refuse.
10. "Source-Separate" or "Source-Separated" or "Source-Separation" means the process of removing recyclable materials from solid waste for the purpose of recycling.
11. "Source-Separated Recyclable C&D Material" means any type of recyclable construction and demolition material separately containerized or clearly segregated from mixed construction and demolition debris, and other recyclable construction and demolition material, prior to collection and transportation for further processing.
12. "Source-Separated Single Recyclable" means recyclable material that is segregated by the generator for the purpose of recycling into one of the following categories: newspaper; mixed paper; glass; metals; plastics; wood; beverage containers; concrete; soil; and such other categories as may be designated in rules promulgated by the City Manager.
13. "State" means the State of California.
14. "Subcontract" is a contract assigning some of the obligations of a contract to a third party.

T. "T" Definitions.

1. "Tenant" means someone who pays rent to live in a multi-family residential dwelling unit that is owned by someone else or someone who pays rent to occupy a commercial property that is owned by someone else.
2. "Transformation Facility" is defined in Public Resources Code Section 40201, and as may be amended from time to time.

U. "U" Definitions.

1. "Universal Waste" means hazardous waste that is universal waste as defined and listed, respectively, in 22 California Code of Regulations Sections 66273.9 and 66261.9, and as may be amended from time to time.

2. "Unrecyclable C&D Debris" means mixed construction and demolition debris that contains only incidental amounts of recyclable construction and demolition material commingled with it.

V. Reserved for future use.

W. "W" Definitions.

1. "Waste Log (WL)" means the record sheet (provided as a blank form by Building Safety and Inspection to the permit applicant as part of the permit application packet) with periodic entries completed by the project manager or permit holder that details the actual construction and demolition waste and recycling activity for the project, post-demolition or post-construction.
2. "Waste Management Plan (WMP)" means a completed form prepared by the permit applicant with an estimate of the construction and demolition waste and recycling for the project, submitted for approval by Integrated Waste, pre-demolition or pre-construction.

X. Reserved for future use.

Y. Reserved for future use.

Z. Reserved for future use.

30.10.020 Ownership of solid waste.

Solid waste is the property of the generator until any of the following has occurred:

- A. The generator legally discards the solid waste;
- B. The owner, occupant, manager or other person in possession, charge or control of a premise where solid waste is generated removes solid waste located on the premise and legally discards the solid waste;
- C. A hauler collects solid waste from its customer and recycles or disposes of it in accordance with law,

30.10.030 State exemptions.

The State of California, its public universities and colleges, and unified school districts are exempted from the requirements of this Chapter with respect to handling solid waste generated on their respective premises, to the extent required by law.

30.10.040 Dumping or littering.

No person shall throw, drop, leave, dump, bury, burn, place, keep, accumulate or otherwise dispose of any refuse on public property or the private property of another, including any cart, container, or other waste receptacle, without permission or approval of the property owner, and except in accordance with all applicable laws, ordinances, resolutions.

30.10.050 Hazardous materials.

No person shall deposit in any container used for solid waste any explosive or highly flammable, radioactive, toxic or other hazardous material or substance as defined by state and/or federal law. However, special arrangements may be made with the contractor or licensed hazardous waste hauler for removal of such hazardous material. The contractor is under no obligation to remove hazardous waste.

30.10.060 Burning or burying of solid waste prohibited.

It is unlawful for any person to burn or bury within the City any solid waste, or to place or deposit upon any street, alley, place or vacant lot any of the materials included in the definition of the word "solid waste."

30.10.070 Scavenging prohibited.

A. No person shall open, look into, search through or remove solid waste from any other person's solid waste receptacle without the written permission of the individual or entity that pays for solid waste handling services with that receptacle or owns that receptacle, except for the following:

1. An authorized hauler that is hired to collect that receptacle;
2. A law enforcement officer;
3. A City employee in the performance of their duties;
4. Any person authorized and directed by the City Manager, such as someone conducting solid waste audits.

B. No person or entity, other than the collector authorized by the City Manager or by the contract to collect solid waste at that location, shall remove or collect recyclable or salvageable materials placed by any person in a bag or container labeled for the use in connection with the recycling program operated by such collector, or to remove or collect recyclable or salvageable materials found at any commercial, industrial or city-owned or leased facility within the City. This Section shall not apply to residential,

commercial or industrial customers who contract for the removal of their recyclable or salvageable materials.

30.10.080 Promulgation.

The City Manager is authorized to administer, implement and enforce this Title and promulgate related solid waste policy.

30.10.090 Appeals.

Any person aggrieved by the terms or application of a regulation made pursuant to this Title may file a written appeal with the City Clerk in accordance with EGMC Chapter 1.11.

30.10.100 Violations, enforcement, actions and remedies.

Each failure to comply with any provision of this Title or any regulation promulgated under this Title is unlawful and constitutes a public nuisance and shall be enforced in accordance with procedures set out in EGMC Chapters 1.04 and 16.18.

30.10.110 Notices.

A. Public Hearings.

1. Posting and publishing. Whenever a provision of this Title authorizes or requires a public hearing to be conducted by the City Council, the City Clerk shall give notice of the time, date, place and purpose of the hearing.
2. Personal delivery or mail. If the public hearing concerns an identifiable person, the City Clerk shall personally deliver or mail the notice, postage prepaid, by deposit, at a United States post office, sub-post office, or substation, or in a mail box or mail chute. The City Clerk will direct the notice to the latest address that the person provided to the City.

B. Other Notices. The City Clerk or City Manager will give notices other than notices for public hearing by personal delivery or by mail under EGMC Section 30.10.100(A)(2).

30.10.120 Haulers.

No person may haul solid waste on City streets, alleys, highways or other public pavement except as authorized by this Title.

30.10.130 Transportation requirements.

A. Any person transporting solid waste in the City shall ensure that no material drops, sifts, leaks, blows, spills or otherwise escapes from the vehicle transporting that solid waste.

B. Any person transporting solid waste shall cover the transported load of solid waste except that any person transporting processed recyclables, such as waste paper or cardboard need not cover transported loads if that person secures the processed recyclables so that no solid waste spills or falls from the transporting vehicle.

C. The City shall reasonably act to enforce, or to assist a contracted hauler in enforcing provisions of the hauler's franchise that adversely affect public health or that impinge on the City's goals as stated in this Title.

D. Persons engaged in solid waste removal pursuant to these requirements shall be responsible for any damage in excess of normal wear and tear to the City's driving surfaces, whether or not paved, resulting from the illegal weight of, or any leakage or spillage of, oils, fluids or solids by vehicles used in such solid waste removal.

E. Vehicles used for the collection, transportation, or disposal of solid waste shall comply with California Highway Patrol (CHP) and Department of Transportation (DOT) regulations, and shall be thoroughly washed and disinfected inside the collection body following each use.

30.10.140 Disposal.

A. Any person transporting solid waste in the City shall deliver all solid waste collected and dispose of such solid waste only at sites or facilities that are authorized to accept that solid waste under solid waste law, such as permitted transfer stations, landfills, materials recovery facilities, composting facilities, and recyclables buy-back centers.

B. The City may direct anyone transporting solid waste in the City to deliver solid waste to, and discard it at, one or more sites or facilities owned by the City.

Chapter 30.20

RESIDENTIAL CUSTOMER

Sections:

30.20.010 Mandatory service.

30.20.020 Exemptions from mandatory service.

30.20.030 Container placement and maintenance.

30.20.010 Mandatory service.

A. Except as otherwise provided in this Title, every person owning or occupying residential property within the City limits shall utilize the solid waste collection and transportation services of the franchised hauler authorized by the City, and shall pay the fees for those services as set by the City. The City may cause to be removed, at the expense of the owner or occupier of any premises, any solid waste not collected due to the failure or refusal of the owner or occupier of the premises to arrange or pay for the contractor's services.

B. Residential complexes that do not allow for adequate space to collect materials may not be offered the same service level provided to residents under the franchise agreement with the City's franchised hauler. For example, at a high density development, should the available spacing for cart placement be less than the required three feet (3'0") between each cart and three feet (3'0") away from any car or stationary object, residents of the complex may not be allowed a second cart for greenwaste or recycling and will still be required to pay the normal residential service rates as set by Resolution.

30.20.020 Exemptions from mandatory service.

A. Garbage Collection Exemptions. A customer may apply for a garbage collection exemption outlined in this Section by submitting a completed "Request for Garbage Collection Exemption" form provided by the City's Utility Billing Department. Within thirty (30) days of receipt of a completed application, the City Manager, at his or her sole discretion, will review and approve or deny the application, according to the terms of the Garbage Collection Exemption Policy. The City Manager will notify the owner of record if the billing is changed to comply with that request. Until the owner receives notification that the City has approved the exemption application, the owner of record will remain liable to pay the City for garbage collection services and any delinquent fees. The City may inspect the property periodically to ensure compliance with the exemption criteria.

1. Secondary structure exemption. Owners of residential parcels bearing more than one (1) residential structure may request to exempt the secondary structure from City garbage collection service charges provided the following criteria is met:

- a. Legal property owner must reside on property and the property must subscribe to the normal trash service level.
 - b. The secondary structure must be located on the same parcel as the primary structure, must be detached from the primary structure, must have a permanent foundation, and must be less than one thousand square feet (1,000 ft²) in area.
2. Self-haul exemption. Owners may qualify to collect or haul refuse by means other than the City-provided services if they satisfy the following criteria:
- a. Any person entitled to self-haul their solid waste may remove or may cause to be removed from premises occupied by that person or under their control, such solid waste as is created or produced on such premises upon compliance with the provisions of this Section.
 - b. Only the owner or occupant, or the employees of such owner or occupant, shall make such removal.
 - c. All vehicles used in carrying out such removal shall be owned by, or under the exclusive control of, the owner or occupant, and such vehicles and activities shall meet all the requirements of this Chapter and all other laws and ordinances of the State of California and the City relating to solid waste disposal.
 - d. The following additional requirements shall also apply:
 - i. Weekly receipts from a permitted solid waste disposal facility must be provided to the City's Utility Billing Department on a quarterly basis as proof of proper disposal.
 - ii. No waste shall be permitted to leak, blow, litter or fall from any vehicle engaged in such removal.
 - iii. All removal shall be done safely and quietly with due regard to the property of others.
 - iv. Persons engaged in solid waste removal pursuant to these requirements shall be responsible for any damage in excess of normal wear and tear to the City's driving surfaces, whether or not paved, resulting from the illegal weight of, or any leakage or spillage of oils, fluids or solids by vehicles used in such solid waste removal.
 - v. Any person using a self-haul garbage exemption shall dispose of the garbage at a permitted transfer station or solid waste facility.

- vi. Any person using the self-haul exemption shall separate greenwaste, garbage, and recyclables, and shall take such greenwaste to a permitted composting facility, transfer station or landfill permitted to accept the waste type.
- vii. Any person using the self-haul exemption shall separate recyclables from other solid waste and they shall be recycled at a permitted recycling facility, buy-back center or transfer station permitted to handle the waste type.
- viii. Any person using the self-haul exemption shall comply with insurance requirements as specified from time to time by the City.
- ix. Self haul deposit: A cash security deposit shall be deposited with the City in an amount set from time to time by Council resolution, to ensure prompt removal of solid waste in the event it is not removed from the premises on a regular weekly basis by a non-customer owner or person in control of the premises. The security deposit shall be made for each separate residential property or business location owned or controlled by a non-customer, based on the frequency and volume of past collection. Events requiring City to use a non-customer's deposit for solid waste removal shall be treated as a public nuisance subject to immediate abatement and charged to such non-customer. Conduct requiring City to expend non-customer deposit moneys shall constitute a misdemeanor.
- x. Any person using the self-haul exemption engaged in solid waste removal, shall procure and retain a receipt from a permitted solid waste facility for each week they remain a non-customer of a collector and display all such receipts for the preceding one-quarter calendar year upon reasonable request by the City Manager. Failure to show proof of solid waste disposal for each week that a person is a non-customer shall constitute a public health and safety risk sufficient to permit the City to administratively require such person to become a customer.
- xi. It shall be unlawful for any person using the self-haul exemption to collect or transport solid waste for any other person.

- 3 Other exemptions may be made for the following reasons:
 - a. The customer has contracted with an authorized commercial hauler or franchised commercial hauler.
 - b. Such other exemptions as may be granted by the City Council by resolution.

30.20.030 Container placement and maintenance.

A. Cart Maintenance. Residential customers shall maintain solid waste containers in a safe and sanitary condition and in good repair free from sharp or rough edges, jagged surfaces or other hazards likely to cause injury. In the event the residential hauler provides such containers, residential customers shall be responsible for maintaining such containers in a clean and sanitary condition and securing them from loss. In the event of loss, residential customers may be required to reimburse the residential hauler for the cost of the carts as identified in the Franchise Agreement between the City and the franchised residential hauler. The franchised residential hauler shall be responsible for keeping containers in good repair. It shall be the responsibility of residential customers to maintain solid waste containers in a clean and sanitary condition. All residential solid waste containers shall be tightly covered.

B. Cart Storage. Generators shall store carts or other solid waste storage containers out of view from any street, sidewalk or other public right of way, by fence, landscaping, building, or other efficacious screening as determined by the City Manager, except that use of an established concrete pad on the side of the house shall satisfy the requirements of this Section. No person shall store carts or other containers on public property, including rights-of-way.

C. Cart Set-Out Times for Collection. No persons shall set out carts more than twenty-four (24) hours prior to scheduled collection. All persons shall return carts to the cart storage area no later than 6:00 a.m. on the morning following collection.

D. Cart Location for Set-Out. Except as otherwise agreed to by the residential hauler; no person shall set out carts for collection except in the following locations:

1. On the street in front of the residential premise with the wheels of the carts against the curb; or
2. If there is no curb, on the edge of the street in front of the residential premise with the wheels of the carts abutting the premise; or
3. Any other place that the City Manager may prescribe in order to provide efficient or safe collection.

E. Cart Placement. All persons shall place carts in a single line with three feet (3'0") between each cart and three feet (3'0") from any car or stationary object, and shall not block the driveway. No person may set out any cart where the cart may obstruct vehicular traffic.

F. Other Materials Placement. Generators who subscribe to collection service shall set out for collection bulky solid waste, used oil and oil filters, Christmas trees and any other materials as may be permitted in conjunction with special programs provided by the residential hauler, at the curb in front of each residential premise or, if there is no curb, on the edge of the street in front of the residential premise.

G. Containerized. Generators may discard solid waste at the set-out locations described in EGMC Section 30.20.030(D) only in carts unless non-containerized set-out is otherwise permitted in conjunction with annual neighborhood curbside cleanup days; collection of used oil and oil filters, Christmas trees or customer-requested bulky waste; or other special services provided by the residential hauler.

H. Roll-Off Containers. Generators may subscribe to roll-off container service from an authorized commercial hauler for a maximum of seven (7) days without a building permit. When there is a building permit, the roll-off container shall be serviced, at a minimum, every fourteen (14) days.

I. Receptacle Closure. Generators shall keep lids of carts fully closed (and other receptacles such as cans or bags, tightly covered or securely tied) in order to prevent solid waste overflow, spills or litter that can cause odors and exposure of solid waste to insects, vermin and other vectors; encourage foraging by domestic or wild animals; and otherwise create a nuisance or threat to public health and safety. No person may fill a container in excess of its capacity.

J. Receptacle Cleaning and Maintenance. In order to maintain carts in serviceable condition, normal wear and tear excepted, generators may use carts only for storage of solid waste. Except as otherwise directed by the City Manager, no person shall paint, mark or otherwise deface a cart in any way. Generators shall clean the inside and outside of his or her cart (or other receptacle) as necessary to maintain sanitary conditions and keep carts free of graffiti.

K. Weight Limitations. No person shall fill carts in excess of weights prescribed by the residential hauler or the City Manager.

L. Directions. Generators shall comply with the discard directions of the residential hauler or the City Manager, including directions embossed on, or affixed to, carts.

M. Contaminating Source-Separated Recyclables or Greenwaste with Refuse. No person may contaminate carts that have been designated by the City Manager or residential hauler for the collection of recyclables or greenwaste, by discarding recyclables in the designated greenwaste cart or greenwaste in the designated recyclables cart. Refuse may only be placed in the designated refuse cart.

Chapter 30.30

RESIDENTIAL HAULER

Sections:

30.30.010 Franchise required.

30.30.015 Grant of franchise.

30.30.020 Public hearing requirements.

30.30.030 Duty of applicant – Publication expenses.

30.30.040 Resolution of intention to grant franchise – Notice of hearing – Publication of notice – Time for hearing.

30.30.050 Public hearing requirements – Protests – Considerations – Grant of contract.

30.30.060 Duty to maintain books.

30.30.070 Violation by grantee – Liability for damages to the City – Liability for operating without a contract.

30.30.080 Recyclable material – Deposit and collection.

30.30.090 Exceptions to Grant of Franchise

30.30.010 Franchise required.

No person or entity shall engage in the business of collecting, transporting, or disposing of any refuse kept or accumulated in the City unless authorized to do so under and by virtue of a contract with the City. The City may in its discretion enter into a contract with any person or entity thereby authorizing such person or entity to engage in the business of collecting, transporting, and disposing of refuse produced, kept, or accumulated in the City. Each and every such contract shall describe the terms, conditions, restrictions, and limitations as may be deemed necessary or convenient for the preservation,

protection, or enhancement of the public peace, health, safety, and general welfare; provided, that no contract shall be granted without reserving to the City adequate compensation for the privilege conferred.

30.30.015 Grant of franchise.

The procedure to obtain a contract granting a franchise under this chapter shall be as follows:

A. Any person desiring an amendment to an existing franchise contract solely for a change in the collection rates contained therein and pursuant to the terms and conditions of said contract shall obtain such amendment by following the procedures as set forth in that contract. The City shall consider such an amendment pursuant to the terms of the contract. No public hearing shall be required unless expressly provided for in such contract and the procedures included in this chapter shall be inapplicable to the extent inconsistent with the contract.

B. Any person desiring to obtain a contract or an amendment to an existing contract, except as set forth in EGMC Section 30.30.015(A), shall apply for a contract, which includes an amended contract, for the purpose of providing certain services that the applicant seeks permission from the City to supply, relating to collecting, transporting, or disposing of garbage, refuse, or rubbish in the City. The applicant shall apply by filing with the City an application to provide such services.

Such application shall include the following:

1. The name and address of the applicant as well as the principal officers and directors of the applicant if the applicant is not a natural person;
2. The service that the applicant proposes to provide, the cost of such service, and the terms and conditions of such service;
3. The term for which the applicant desires to engage in business;
4. The compensation to be paid by the applicant for the privilege conferred by the contract;
5. An assurance satisfactory to the City Manager that the services proposed do not conflict with the operative provisions of any existing exclusive franchise contract; and
6. Any other information required by the City Manager to evaluate the applicant's qualifications, experience, and financial ability to provide such service.

30.30.020 Public hearing requirements.

A. Upon receipt of an application by the City Council, the City Council must notice and provide a public hearing whenever it finds that the application for a refuse contract is

completed to its satisfaction, except under the following conditions:

1. The City Council determines that the application cannot be approved as applied for without conflict with the operative provisions of an existing exclusive franchise contract; or
2. The applicant does not advance fees required.

B. If the City Council is not mandated to notice and provide a hearing under EGMC Section 30.30.020(A), the application shall be deemed rejected and no contract shall be awarded on the basis of such application.

30.30.030 Duty of applicant – Publication expenses.

Applicant for a contract shall pay to the City a fee in the form of a sum of money sufficient to reimburse the City for all expenses in connection with the processing of the application, including publication expenses. Said fee shall be set by resolution of the City Council.

30.30.040 Resolution of intention to grant franchise – Notice of hearing – Publication of notice – Time for hearing.

A. When a public hearing is mandated pursuant to this section, the City Council shall pass a resolution of intention to grant a franchise, which:

1. States the character of the proposed contract;
2. Sets forth a notice of the day, hour, and place when and where all persons having an interest in granting the contract may appear before the City Council and be heard thereon; and
3. Directs the City Clerk to publish the notice at least once within fifteen (15) days after the passage of the resolution in a newspaper of general circulation within the City.

B. Time fixed for the hearing shall be not less than twenty (20) days or more than sixty (60) days after the date of passage of the resolution.

30.30.050 Public hearing requirements – Protests – Considerations – Grant of contract.

A. At the time set for the public hearing for consideration of a pending application for a refuse contract, if such a hearing is required under this chapter, the City Council shall:

1. Consider the applicant's ability to carry out the service proposed to be provided by the contract, the financial and business experience and standing of the applicant, and any other pertinent factors, including the public interest served; and

2. Hear the application and the comments of interested persons.
- B. The City Council may adjourn the public hearing from time to time at the City Council's discretion.
- C. Following the conclusion of the hearing, the City Council shall decide if the contract shall be granted.
- D. Henceforth, a person's acceptance of a franchise by entering into a contract with the City under the provisions of this chapter shall operate as an abandonment of all of that person's pre-existing franchises, rights, and privileges in lieu of which the contract is granted, except as expressly provided in such contract.
- E. If the City Council's proffered contract is not accepted by the applicant by execution within ten (10) days of the City Council's decision to enter into the contract to grant the franchise, the City Council's offer is revoked and the application is denied.

30.30.060 Duty to maintain books.

Any person holding the privilege granted by a contract pursuant to this chapter shall keep and maintain such books and records as may be required by the City Council as part of said contract. The City shall have free access and the right at any time to inspect and audit any books and records required to be maintained by the person holding the privilege granted under this chapter and for a period of three (3) years following the expiration or termination of the franchise, whichever occurs first.

30.30.070 Violation by grantee – Liability for damages to the City – Liability for operating without a contract.

- A. The grantee of a contract under this chapter shall be liable to the City for all damages proximately caused or resulting from the failure of the grantee to faithfully observe and perform any provisions of such contract and/or any provision of this chapter. If legal proceedings are necessary to enforce the provisions of the contract against any grantee of said contract, said grantee shall be liable for the value of the services of attorneys and of other personnel as well as the expenses of the City that are necessary to gain compliance.
- B. Any person providing services consisting of collecting, transporting, or disposing of refuse in the City without the benefit of a duly executed contract with the City shall be subject to criminal prosecution for violation of this chapter and shall be liable to the City for the value of the services of attorneys, other personnel, and expense of the City. Such person shall also be liable for the fees the City would have been entitled to if said person had been the duly authorized collector under contract with the City.

30.30.080 Recyclable material – Deposit and collection.

A. Recyclable material set out for collection at residential properties or other classes of properties (subject to the right of any collector under such collector's contract with the City) that may be so designated by the City Council shall become the property of the City, the City's authorized recyclable materials collector, or a person expressly authorized by the owner or occupant of the properties served, and only these persons shall have the exclusive right to said recyclable material.

B. Various properties and facilities may be approved from time to time by the City in accordance with the rules and regulations as authorized locations for the deposit of recyclable materials.

30.30.090 Exceptions to Grant of Franchise.

A. The rights and privileges granted in the residential franchise agreement to the franchised hauler shall in no way prevent or restrict the City or other parties from doing the following:

1. Owners and occupants of residential premises may self-haul or remove any type of solid waste in their own vehicles.
2. A person who generates solid waste at a residential premise as an incident of that person's primary service and who does not separately itemize the removal costs as a refuse hauling service, may haul the incidental solid waste from that premise. Examples include, but are not limited to:
 - a. hired construction contractors or subcontractors hauling solid waste, such as construction and demolition debris they generate in the course of providing construction or demolition services at the residence, but not any debris generated by the resident;
 - b. hired gardeners hauling greenwaste they generate in the course of providing gardening services;
 - c. retail businesses hauling furnishings from the residence following the delivery of comparable new merchandise.
3. The owner or occupant of a residential premise may sell or donate solid waste to another person.
4. The owner or occupant of a residential premise may discard solid waste, including bulky waste when emptying a house for an estate sale or cleaning out a

garage, in bins, roll-off containers or any container other than carts when he or she subscribes to roll-off service.

5. A business located in a residential premise may subscribe to commercial service in dumpsters.
6. Private parties may donate or sell recyclable or salvageable materials, other than food waste, that has been generated and segregated by such parties from other materials to any party of their choice, provided that such sale or donation is a true sale or donation.
7. Other permitted entities may haul and dispose of septic tank, sand trap and grease trap contents.
8. The City's street cleaning service may provide the collection of refuse in connection with its service.
9. Any other service that is not specified in this Chapter that normally would be considered to fall within the franchised hauler's services, and that the contractor explicitly waives it's right to provide, may also be provided with written notice to the City.
10. The provisions of this Chapter shall not preclude or prohibit the City from utilizing its own forces, or any officer or employee thereof, from collecting, removing, and disposing of solid waste or greenwaste from the City's facilities, or to preclude or prohibit the State, utilizing its own forces from collecting, removing, and disposing of solid waste or greenwaste from the State's facilities respectively.

Chapter 30.40

NON-RESIDENTIAL CUSTOMER

Sections:

30.40.010 Service required.

30.40.020 Service exemptions.

30.40.030 Container requirements.

30.40.040 Container storage.

30.40.050 Commercial solid waste storage, set-out, and discard.

30.40.010 Service required.

A non-residential entity shall subscribe to collection services only from a commercial hauler with a valid authorization issued by the City pursuant to EGMC Chapter 30.50. Non-residential customers are responsible for removal of all refuse accumulated on its commercial premise and shall comply with 14 CCR 17331, as may be amended from time to time. A non-residential customer shall remove solid waste from its premise at least once each week, except that a non-residential customer comprised of a restaurant, retail or wholesale market, food processing facility, hotel, motel, or other commercial establishment where food is sold, prepared or served, shall remove solid waste accumulated on its premise at least twice each week, or more frequently if determined by the City Manager. A non-residential customer shall subscribe to containers from the commercial hauler, or provide receptacles itself, in sufficient number, adequate size and enough collection frequency of removal, to contain all solid waste generated and accumulated on its commercial premise pending collection.

30.40.020 Service exemptions.

If a non-residential customer chooses not to subscribe to commercial collection services from a commercial hauler, then the non-residential customer shall remove solid waste from its non-residential customer premise in accordance with EGMC Section 30.60.110.

30.40.030 Container requirements.

Non-residential customers shall store all solid waste generated or accumulated on its premise in one (1) of the following types of receptacles: 1) carts provided by a residential hauler, or 2) bins, dumpsters, compactors or other containers provided by a commercial hauler. A non-residential customer shall comply with 14 CCR 17315, and as may be amended from time to time, and ensure that receptacles are non-absorbent, water-tight, vector-resistant, durable, and easily cleanable containers; or strong and water-tight plastic bags that are designed to contain refuse. Containers shall have plugs for drainage. The non-residential customer will mark its containers so that the address of the non-residential customer is clearly marked in letters at least three inches (0'3") high and plainly visible.

30.40.040 Container storage.

A. Storage Area. Pending collection and removal, a non-residential customer shall store solid waste containers (other than carts) in storage areas meeting the following requirements, unless directed otherwise by the City Manager:

1. Containers are to be stored inside enclosures designed to accommodate trash and recycling bins. Trash containers or bins not stored within enclosures shall be

approved by the City Manager.

2. The storage area shall be located within one hundred feet (100'0") of the commercial premise.
3. The storage area for containers larger than one hundred gallon (100 gal) capacity may not be located within twenty-five feet (25'0") of any window, door or ventilation intake of any structure.
4. The storage area shall have retaining walls, fences, guard rails, bumpers or curbs to protect vehicles parked at adjacent spaces from damage by containers or collection vehicles.
5. The floor or bottom surface of the solid waste storage area shall be made of concrete or other impervious material approved by the City Manager.
6. The storage area shall be designed so that a commercial hauler may collect containers that do not have wheels or casters without having to move the containers.
7. The storage area shall be designed so that movement of no more than ten feet (10'0") is required for a hauler to properly position containers with wheels or casters for collection service.
8. The storage area shall be out of view from the street, sidewalk or other public right of way (other than alleys) by fence, landscaping, building or other efficacious screening as determined by the City Manager.
9. The storage area may not be on public property, set-backs or rights-of-way.
10. The storage area shall not obstruct traffic.
11. A non-residential customer shall maintain supervision and surveillance over containers on its commercial premise.
12. A non-residential customer shall not allow rubbish to accumulate around the containers or receptacles.

B. Storage Area Design Requirements. A non-residential customer with a new or remodeled commercial premise shall comply with The California Solid Waste Reuse and Recycling Access Act of 1991 and the City's *Space Allocation and Enclosure Design Guidelines for Trash and Recycling*, or as amended by Council resolution.

30.40.050 Commercial solid waste storage, set-out, and discard.

A. A non-residential customer shall keep containers fully closed (and other receptacles such as cans or bags, tightly covered or securely tied) in order to prevent solid waste overflow, spills or litter that can cause odors and exposure of solid waste to insects, vermin and other vectors; encourage foraging by domestic or wild animals; and otherwise create a nuisance or threat to public health and safety. A non-residential customer may not fill a container in excess of its capacity.

B. Receptacle Cleaning and Maintenance. If the commercial hauler furnishes containers but is not responsible for maintaining them under terms, conditions or agreements between the hauler and a non-residential customer, then the non-residential customer shall clean the inside and outside of the hauler's containers as necessary to maintain sanitary conditions and keep them free of graffiti, and to comply with 14 CCR 17314, and as may be amended from time to time. If a non-residential customer does not subscribe to solid waste collection service, the non-residential customer shall clean the inside and outside of its receptacles as necessary to maintain sanitary conditions, and to also keep them free of graffiti.

C. Non-residential customers shall provide and empty a tobacco waste receptacle, such as a cigarette urn or ash tray, in each area of its commercial premise where smoking is lawfully permitted.

D. Set-Out Times. A non-residential customer will plan with its commercial hauler to set out storage containers for collection in a place that will minimize traffic, aesthetic and other problems on the commercial premises, and for the general public, as the commercial hauler is obligated to do under 14 CCR 17314, and as may be amended from time to time.

E. Collection Set-Out Site. Unless a non-residential customer arranges with a commercial hauler to provide manual roll-out or push services, a non-residential customer shall set out its containers for collection at appropriate locations. A non-residential customer may not set out any container where the container will block driveways; the container shall be out of the public right-of-way and shall not otherwise obstruct vehicular traffic.

F. Roll-Off Containers. Non-residential customers may subscribe to roll-off container service from an authorized commercial hauler for a maximum of seven (7) days without a building permit. When there is a building permit, the roll-off container shall be serviced, at a minimum, every fourteen (14) days.

G. Discard Prohibitions.

1. Containerized. A non-residential customer may discard solid waste at the set-out locations described in EGMC Section 30.40.50(E) only in containers. A non-residential customer shall place all bagged solid waste inside containers.
2. Hazardous waste, medical waste, e-waste, universal waste, and airborne waste. A non-residential customer may not commingle materials that are not solid waste (such as hazardous waste, medical waste, electronic waste and universal waste) with solid waste discarded for collection or removal. A non-residential customer will securely bag or wrap airborne waste before discarding it.
3. Weight limitations. A non-residential customer may not fill containers in excess of the weights prescribed by its hauler.
4. Contaminating source-separated recyclables or greenwaste with refuse. No non-residential customer may contaminate containers that have been designated by the City Manager, registered or franchised commercial hauler, or authorized recycler, for the collection of recyclables or greenwaste, by discarding recyclables in the designated greenwaste container or greenwaste in the designated recyclables container. Refuse may only be placed in the designated refuse container.

Chapter 30.50

NON-RESIDENTIAL HAULERS

Sections:

- 30.50.010 Franchise agreements required.
- 30.50.020 License fees, vehicle inspection fee or business taxes.
- 30.50.030 Commercial hauler qualifications.
- 30.50.040 Registration application or franchise agreement.
- 30.50.050 Inspection of equipment and facilities.
- 30.50.060 Vehicles.
- 30.50.070 Vehicle inspections.
- 30.50.080 Transportation requirements.

- 30.50.090 Containers.
- 30.50.100 Obligation.
- 30.50.110 Hauler fees for clean-up companies.
- 30.50.120 Disputes.
- 30.50.130 Customer invoices.
- 30.50.140 Time and manner of payment.
- 30.50.150 Payment security.
- 30.50.160 Documentation and warranty.
- 30.50.170 Late fees.
- 30.50.180 Credit for overpayment.
- 30.50.190 Records, accounts and reports.
- 30.50.200 Audit.
- 30.50.210 Insurance.
- 30.50.220 Violation by grantee – Liability for damages to the City – Liability for operating without a contract.

30.50.010 Franchise agreements required.

A. No person shall engage in the business of collecting, transporting, or disposing of commercial solid waste kept, accumulated or generated in the City or to engage in the business of soliciting accounts or invoicing customers for commercial solid waste service in the City unless authorized to do so under a valid registration or franchise agreement with the City. The City may, in its discretion, authorize one (1) or more persons for the collection, transportation, or disposal of commercial solid waste kept, accumulated or generated in the City or to engage in the business of soliciting accounts or invoicing customers for commercial solid waste service in the City. Each and every such authorization shall describe the terms, conditions, restrictions, and limitations as may be deemed necessary or convenient for the preservation, protection, or enhancement of the public peace, health, safety, and general welfare, provided that no authorization shall be granted without reserving to the City adequate compensation for the privilege conferred.

B. No person may haul commercial solid waste on City streets, alleys, highways or other public pavement except the following and his or her (or its) employees:

1. An authorized hauler with a valid registration that is not expired or revoked or an authorized hauler with a binding franchise agreement that is not expired or terminated;
2. Any person authorized to self-haul;
3. Any owner or operator of an industrial plant hauling solid waste that, in the judgment of the City Manager, cannot be handled by standard solid waste collection equipment or may involve significant health, operating or handling hazards;
4. Any person hauling dead animals, bones, meat scraps or food waste from food processing plants for tallow or fertilizer;
5. Any person transporting solid waste comprised of raw materials to be reused for new manufactured products and not for disposal.

30.50.020 License fees, vehicle inspection fee or business taxes.

Any commercial refuse hauler fees paid by an authorized hauler shall be in addition to any license fee, special license fee, business tax, vehicle inspection fee or other fee prescribed by the City.

30.50.030 Commercial hauler qualifications.

The following persons are referred to in this Title as commercial haulers:

- A. Each person that is obligated under EGMC Chapter 30.50, and as may be amended or replaced, or who shall secure a valid registration or binding franchise agreement issued by the City; and
- B. Each person that is obligated under Section 1.01.030 of SWA Ordinance No. 16, and as may be amended from time to time, or under a substantially similar provision to secure a franchise granted by SWA; and
- C. Each person who collects solid waste from a five-plex or larger multi-family property and services them with bins or roll-off containers; and
- D. Each person, including clean-up companies, that removes construction and demolition waste from premises in the City, regardless of the type of collection containers (including without limitation, pens, bins, drop boxes, debris boxes or roll-off containers) or transport vehicles (including, without limitation, pick up, garbage or flat-

bed trucks); and

E. Each person who supplies goods (including, without limitation, containers and vehicles) or services (including, without limitation, account solicitation, billing, invoicing, subcontracting, brokering, disposal or any solid waste handling services) to persons described under the items listed in EGMC Sections 30.50.30(A) through 30.50.30(D) above, whether pursuant to arrangements that are formal or informal, written or otherwise.

30.50.040 Registration application or franchise agreement.

A. All commercial hauler registration applications or franchise agreements pursuant to EGMC Chapter 30.50, shall be in writing and approved by the City Manager.

B. Each registration application or franchise agreement shall be on a form provided by the City and shall include information related to the business identification, business operations, facilities and equipment, financial resources, diversion plan, and insurances. It may also include an application for law enforcement review. The application form or franchise agreement will be updated and changed periodically, as determined by the City Manager.

30.50.050 Inspection of equipment and facilities.

The City may inspect any equipment, vehicles, containers, and facilities (including, without limitation, operations and maintenance, and solid waste handling) used by a commercial hauler in connection with operating, conducting business or providing services within the City or handling solid waste collected within the City.

30.50.060 Vehicles.

A. Specifications. An authorized commercial hauler will ensure that each vehicle used for solid waste handling meets the following specifications (and as may be verified or determined by the City Manager):

1. The storage vessels, tanks, receptacles or beds of a vehicle that holds garbage, or other wet, putrescible or liquid-producing solid waste, or solid waste composed of fine particles, shall be leak resistant and made of metal or other non-absorbent material that is impervious to liquid, and comply with 14 CCR 17341, and as may be amended from time to time;
2. The vehicle shall be constructed in a way that minimizes health and safety hazards to solid waste handling personnel and the public, and also that complies with 14 CCR 17342, and as may be amended from time to time;
3. The vehicle shall be durable, easily cleaned and sanitized, designed for safe

handling, and constructed to prevent loss of wastes during collection or transportation (such as having covers), and also comply with 14 CCR 17341, and as may be amended from time to time;

4. The vehicle shall have an enclosed solid waste storage or holding compartment;
5. The vehicle shall be originally constructed for, or specifically modified for, solid waste handling;
6. The vehicle shall be equipped with audible and automatic back-up warning devices; and
7. Any vehicle used for refuse, recyclables or greenwaste collection shall be a packer-type truck, and any vehicle used for the collection of roll-off containers shall be a flat-bed truck designed for roll-off collection, unless some other type of truck suitable to the varying terrain, type of solid waste or any other special conditions is approved by the City Manager.

B. Equipping. An authorized commercial hauler shall ensure that each vehicle used for solid waste handling is equipped with a shovel, broom, fire extinguisher and absorbent materials for any spills, such as oil.

C. Signs. An authorized commercial hauler shall permanently display, in a prominent place on either the rear or both exterior sides of each vehicle used for solid waste handling, the following information, in letters at least two inches (0'2") high, and in a contrasting color to the body of the truck:

1. Name and phone number of the hauler, and any additional identification that complies with 14 CCR 17344, and as may be amended from time to time;
2. A unique vehicle identification number; and
3. Any other information as may be determined by the City Manager.

D. Cleaning. An authorized commercial hauler shall keep each vehicle used for solid waste handling clean and neatly-painted, and the storage vessels, tanks, receptacles or beds shall be disinfected and sanitary. All cleaning, disinfecting, and sanitizing shall be done in a manner that prevents the propagation or attraction of flies, rodents or other vectors, or the creation of nuisances, and that complies with 14 CCR 17341, and as may be amended from time to time.

E. Maintenance. An authorized commercial hauler shall maintain each vehicle used for solid waste handling in good mechanical condition and in a manner that minimizes health and safety hazards to solid waste handling personnel and the public, and that complies with 14 CCR 17341 and 17342, and as may be amended from time to time.

F. Parking and Storage. When a vehicle used for solid waste handling is not in service, the authorized commercial hauler that owns or operates that vehicle may not park it on a street or in a residential area of the City, except in an emergency, and shall comply with 14 CCR 17343, and as may be amended from time to time.

G. Time of Collection. All vehicles used for solid waste handling may not enter a residential neighborhood to service customers prior to 6:00 a.m. nor after 5:00 p.m. If bins owned by a commercial customer back up to a residential neighborhood, then the same residential hauler restrictions in EGMC Chapter 30.30, or in the residential franchise agreement, apply to the commercial hauler, as well.

H. Servicing of Schools. No solid waste vehicle shall remove solid waste from any location within two hundred feet (200'0") of a public or private pre-school, or elementary, junior high, or high school, during the forty-five (45) minutes before the commencement of the regular school day and forty-five (45) minutes following the conclusion of the regular school day, where such locations are accessible to, and used by, children as routes to or from school.

30.50.070 Vehicle inspections.

A. General Provisions. All vehicles and other equipment used in the collection, transportation, and disposal of commercial solid waste shall be inspected annually. No vehicle shall be used in the collection and transportation and disposal of commercial solid waste within the City unless it carries a current, unrevoked sticker issued by the City authorizing such activities. An authorized commercial hauler shall make its solid waste equipment available for inspection as requested by the City, and shall also comply with 14 CCR 17345, and as may be amended from time to time.

B. Vehicle Inspections. All registered or franchised haulers shall submit annually a vehicle inventory that lists (on a form provided by the City) all vehicles to be used within City limits. All registered or franchised haulers shall also submit annually a vehicle inspection report for all vehicles to be used by the hauler. This requirement can be met by submitting a current vehicle inspection report from Sacramento County's Environmental Management Department (EMD) or the California Highway Patrol (Department of Transportation BIT inspection), or by requesting an inspection from the City's Police Department. The City's Police Department will charge a fee for each vehicle inspected. The fee amount for the City's Police Department inspection shall be set by Resolution of the City Council. All vehicles and containers used in the collection, removal, transportation or storage of commercial solid waste in the City shall be subject to inspection by the City for the purposes of determining whether or not the vehicles and containers comply with 14 CCR 17341 through 17345, and as may be amended from time to time.

C. Inspection Certification. Each registered or franchised commercial hauler will be issued a vehicle sticker annually for each inspected vehicle. The City's vehicle sticker is evidence that the vehicle passed an annual inspection and that the hauler was authorized as a registered or franchised commercial hauler. Stickers will be mailed to each authorized hauler with specific instructions for displaying it on the vehicle. It is unlawful for any vehicle not clearly displaying a current sticker to collect commercial solid waste in the City.

30.50.080 Transportation requirements.

A. No Escaping Contents. Anyone transporting solid waste in the City shall ensure that no material drops, sifts, leaks, blows, spills or otherwise escapes from the vehicle transporting that solid waste, and shall also be in compliance with California Vehicle Code Section 23114(a), and as may be amended from time to time.

B. Covered Loads. Anyone transporting solid waste shall cover the transported load of solid waste, and be in compliance with California Vehicle Code Section 23114(e), and as may be amended from time to time, with respect to aggregate material and Vehicle Code Section 23115(a), and as may be amended from time to time, with respect to garbage, refuse, trash, etc. Anyone transporting processed recyclables, such as waste paper or cardboard need not cover transported loads, but shall secure the processed recyclables so that nothing spills or falls from the transporting vehicle, and shall also comply with California Vehicle Code Section 23115(c), and as may be amended from time to time.

30.50.090 Containers.

A. Specifications. A registered or franchised commercial hauler that provides containers, such as bins, dumpsters, or roll-off containers to a customer, shall ensure that the containers meet the following specifications (and as may be verified or determined by the City Manager):

1. Durable;
2. Constructed of structural steel plate, with all seams welded;
3. Non-absorbent, water-tight (to keep rainwater out of the container), and leak resistant (to keep any liquid inside the container); a drainage plug is permissible;
4. Easily cleaned, and having an interior surface that is smooth and without projections;
5. Designed for safe handling;
6. Equipped with a non-combustible lid;

7. Adequately protected from fire;
8. Vector-resistant (including rodents, insects and other vermin); and
9. In compliance with 14 CCR 17315 and 17341, and as may be amended from time to time.

B. Labels. A registered or franchised commercial hauler that provides containers, such as bins, dumpsters, or roll-off containers to its customers, shall ensure that the containers are labeled legibly, plainly and visibly, as follows (and as may be verified or determined by the City Manager):

1. With the name of the hauler, in lettering no less than three inches (0'3") high on the outside of each container;
2. With the telephone number of the hauler, in lettering no less than three inches (0'3") high on the outside of each container;
3. In compliance with 14 CCR 17316, and as may be amended from time to time, with respect to containers of one (1 yd³) cubic yard or more;
4. With labeling on each container clearly prohibiting the discard of unpermitted waste and also prohibiting scavenging. All labels shall provide adequate notice to institute enforcement actions under PRC Section 41950(b), and as may be amended from time to time, and shall be in substantially the following form: "The recyclables in this container is the property of an authorized commercial hauler or recycler. It is illegal to remove recyclables from this container under the City of Elk Grove Municipal Code and also Section 41950 of the California Public Resources Code. Only the authorized commercial hauler or recycler may collect this recyclables or solid waste material. Persons other than the authorized hauler that remove materials from this container are subject to enforcement under the Elk Grove Municipal Code."

C. Maintenance and Cleaning. A registered or franchised commercial hauler shall maintain containers that it furnishes in the following manner:

1. In good condition (ordinary wear and tear excepted), unless the authorized hauler furnishes them under other terms, conditions or agreements in compliance with 14 CCR 17314, and as may be amended from time to time;
2. In a clean and sound condition free from putrescible residue, and in compliance with 14 CCR 17315, and as may be amended from time to time; and
3. Free of graffiti.

D. Placement. A registered or franchised commercial hauler shall plan with each of its customers the location to store and set out containers in order to minimize traffic, aesthetic and other problems, both on the premises and for the general public. An authorized hauler shall comply with 14 CCR 17314, and as may be amended from time to time.

E. Non-Compliance. The City may place a tag on a container that does not comply with the requirements of this Section, describing the nature of the non-compliance and stating the date by which the hauler shall remedy the non-compliance. If the hauler does not remedy the non-compliance by the stated date, the City may consider the container to be solid waste and may then remove and discard it (or recycle any recyclables including the container). The City may charge the hauler for the City's cost of removal and discard or recycling.

30.50.100 Obligation.

A. Commercial haulers shall pay to the City the commercial refuse hauler fee based on gross receipts in the amount prescribed from time to time by Resolution of the City Council and in accordance with the terms of this Chapter.

B. "Gross receipts" includes all, total, aggregate, whole or entire revenue and income received by the commercial hauler for services rendered within the City without offsets or deductions such as costs, expenses, charges, losses, fees (except for the commercial refuse hauler fee), fines or penalties, and without regard to the identity of the customer to which that revenue or income is attributable, whether federal, state or local governmental entities, including, without limitation, school districts. "Gross receipts" excludes all that revenue and income for services comprised of the collection of source-separated material. Source-separated material cannot be mixed for further sorting at a third-party facility.

C. "Source-separated material" means material separated at the point of generation from mixed solid waste that contains less than:

1. Ten percent (10%) of total weight in contaminating solid waste that is not a recyclable commodity, such as paper, glass, metal or wood; and
2. Thirty percent (30%) of total weight in contaminating solid waste that is not an inert; and
3. Both instances in EGMC Sections 30.50.100(C)(1) 30.50.100(C)(2) shall include no more than one percent (1%) of total weight in putrescible solid waste as part of the contaminating solid waste.

For purposes of this Chapter's definition of "source-separated material," an "inert" means solid waste and recyclables that are source-separated and do not contain hazardous waste (as defined in 22 CCR Section 66261.3 et seq., and as may be amended from time to time), or soluble pollutants at concentrations in excess of applicable water quality objectives, none of which solid waste, recyclables or soluble pollutants contain putrescible wastes, including concrete (that may have steel reinforcing bar embedded in the concrete), fully cured asphalt, glass, plastics, fiberglass, asphalt or fiberglass roofing shingles, brick, slag, ceramics, plaster, clay and clay and clay products and any other materials determined by CalRecycle to constitute inerts; further including all materials determined by the State Water Resources Control Board to constitute inerts, such as treated industrial wastes, de-watered bentonite-based and drilling mud; but excluding gravel, rock, soil, sand and similar materials as they exist in their natural state, whether processed or not, that have never been used in connection with any structure, development, grading or other human purpose.

Commercial haulers shall not receive diversion credit for reuse or recycling of source-separated loads of clean dirt/soil. Clean soil/dirt with less than five percent (5%) contamination, which can be easily cleaned, does not count toward diversion (i.e. a dirt load with a few wooden pallets on the load). Source-separated clean loads of soil/dirt do not count toward either diversion or disposal in the quarterly reports of diversion submitted to the City. Haulers may claim diversion credit for dirt/soil if the individual load of mixed construction and demolition debris is sorted and processed, and the resulting soil is used for beneficial reuse.

30.50.110 Hauler fees for clean-up companies.

Clean-up companies provide a range of services, including but not limited to, cleaning up a residential or commercial property or a construction site, source-separating recyclables at a property or construction site, the hauling of solid waste or recyclables, and/or the hauling of construction and demolition (C&D) debris from a property or construction site. The traditional formula of reporting gross revenue subject to the commercial refuse hauler fee does not apply well to a clean-up type of business. The City shall establish a gross revenue estimate due the City based on the weight (tonnage) of commercial solid waste hauled by a clean-up company for the month. Clean-up companies will establish gross revenue based on tons disposed which will not be linked to the actual revenue they may receive during the monthly reporting period. The method for determining that estimate will be set by Resolution of the City Council.

30.50.120 Disputes.

A. At the direction of the City, commercial haulers claiming that specified gross receipts are excluded from the calculation of commercial refuse hauler fees will sort source-

separate materials, or characterize or analyze those source-separated materials by weight, in a manner satisfactory to the City in order to establish to the satisfaction of the City that they are defined “source-separated materials” as defined above.

B. Disputes over whether gross receipts are excluded from the calculation of commercial refuse hauler fees will be resolved by the Director of Public Works. The Director of Public Work’s decision may be appealed to the City Manager, explaining the basis of the appeal, within twenty (20) days of the Director of Public Work’s decision, and accompanied by a pre-payment of the City’s projected costs and expenses of conducting the appeal, including related staff time and any consultant fees. The burden of proof will be on the commercial hauler challenging the Director of Public Work’s decision. The City Manager will hear the appeal and render a written decision that will be final. The City will return any excess pre-payments to the commercial hauler within thirty (30) days of rendering the written decision, or the commercial hauler will reimburse the City any additional costs and expenses within thirty (30) days of the City’s documented request.

30.50.130 Customer invoices.

Commercial haulers may not separately itemize commercial refuse hauler fees in an amount greater than eight percent (8%) on their bills, invoices or other documentation that the commercial haulers distribute to their customers or to the general public.

30.50.140 Time and manner of payment.

A. Commercial haulers shall pay the commercial refuse hauler fees monthly, due and payable on or before the first day of the second month immediately following the month in which they received gross receipts from their customers, commencing on the day this Title and its accompanying Resolution take effect. For example, for gross receipts received in July, commercial haulers shall remit the corresponding monthly commercial refuse hauler fee on or before September 1.

B. Commercial haulers shall pay the commercial refuse hauler fees to the following address:

City of Elk Grove
Attention: Finance Department
8401 Laguna Palms Way
Elk Grove, CA 95758

C. The City may direct payment to another address without amendment to this Section by written direction to the commercial haulers. The commercial refuse hauler fees will be deemed paid at the following times:

1. On the date of personal delivery during hours that the City Hall is open for business to the public;
2. The date of postmark of mailed delivery with the United States Postal Service; or
3. Another date that is proven to the satisfaction of the City that the commercial refuse hauler fees were deposited in the mail or with another delivery service on or before the date the payment is due.

30.50.150 Payment security.

The commercial haulers shall provide the City with a letter of credit or certificate of deposit in a form satisfactory to the City, to secure payment of the commercial refuse hauler fees to the City in an amount equal to the greater of the following amounts:

- A. One half of the amount of commercial refuse hauler fees received from the commercial hauler in the prior calendar year; or
- B. The total amount of commercial refuse hauler fees received during the preceding one hundred eighty (180) days.

30.50.160 Documentation and warranty.

A. Together with the payment of the commercial refuse hauler fees, the person submitting the payment and the chief financial officer of the commercial hauler, or another person acceptable to the City Manager, shall submit the following:

1. Reports and documentation in a form and detail satisfactory to the City Manager showing the basis for calculating the commercial refuse hauler fees, together with additional information that the City Manager determines necessary to calculate or verify the commercial refuse hauler fees; and
2. A representation and warranty, as follows: "I represent and warrant, under penalty of perjury of the laws of the State of California, that I am familiar with the financial transactions of [INSERT NAME OF COMMERCIAL HAULER] and am responsible for keeping and maintaining its financial records, including gross receipts thereof as defined in Section 30.50.100 of the City Code, and I have reviewed the information presented in this statement, and that, to the best of my knowledge and belief after inquiry, the statement is true, correct and complete."

B. The City may rely upon documentation and representations and warranties filed by commercial haulers, but that documentation and those representations and warranties will not be deemed conclusive as to the information presented or statements made therein. Commercial haulers' submission of documentation and representations and warranties does not preclude the City from taking additional measures and actions to

determine and collect commercial refuse hauler fees actually due and payable.

30.50.170 Late fees.

A. If a commercial hauler does not fully and timely pay its commercial refuse hauler fees 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, the commercial hauler shall pay a late fee in an amount set by resolution of the City Council. Late fees apply, without limitation, to instances where the failure to fully and timely pay or report was discovered during a review of the commercial hauler's monthly or quarterly reports or during an on-site review of the commercial hauler's records.

B. 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. Late fees apply, without limitation, to instances where the failure to fully and timely pay was discovered following an audit of the commercial hauler's records or reports in accordance with EGMC Section 30.50.200.

30.50.180 Credit for overpayment.

If a commercial hauler believes it has paid commercial hauler refuse fees in excess of the amount owed the City, it may request a refund by application in form and manner satisfactory to the City. Upon submission of both request and documentation satisfactory to the City, the City may refund the excess amount or credit it against future payments of commercial hauler refuse fees. Commercial haulers may not credit or offset any claimed excess payments of commercial refuse hauler fees to future payments of fees or other amounts due the City without first obtaining the written consent of the City Manager.

30.50.190 Records, accounts and reports.

Commercial haulers shall maintain accurate and complete books and accounts of all gross receipts and records documenting and supporting those books and accounts and shall maintain driver dispatch log books that track the jurisdiction, job site, material type and container volume for the bins collected by load. Commercial haulers shall further do the following:

A. Maintain records of the hauler's operations and business conducted, and the types of service provided in the City including, without limitation, the types and amount (by weight and/or volume) of solid waste and source-separated material that the hauler collects in the City; the materials recovered, transferred, processed, and disposed; and all facilities where the hauler delivers the solid waste and source-separated material).

B. Maintain records of all dump tags, drivers dispatch log books and/or other documentation used by the hauler to record the revenue received for all solid waste hauled to landfills, and report to the City whether or not that documentation is tracked using unique numbers in consecutive order to allow receipts, adjustments and cancellations to be properly controlled and then reconciled to cash receipts and cancellations in the hauler's general ledger and permit fee reports.

C. Report on the Monthly Revenue Reporting Form the commercial refuse hauler fee due the City each month. Documentation supporting the reported commercial refuse hauler fee due the City each month, such as customer invoices or weight tags, is to be provided with the Monthly Revenue Reporting Form. The City reserves the right to require commercial haulers to provide any and all such documentation that it deems necessary to support the reported refuse hauler fee due the City along with each Monthly Revenue Reporting Form. The Monthly Revenue Reporting Form is due on or before the first day of the second month immediately following the month in which the hauler received the gross receipts from their customers. For example, the January Monthly Revenue Reporting Form is due on or before March 1. Payment of commercial refuse hauler fees shall accompany the Monthly Revenue Reporting Form.

D. Report the following customer account information at any time upon request by the City:

1. Customer name or name of business receiving service;
2. Customer address or address of service location;
3. Phone number of service location (if available);
4. Mailing address of customer receiving service (if different than EGMC Section 30.50.190(D)(2));
5. Name and phone number of customer or entity point of contact; and
6. Weekly service volume.

E. Report on the Quarterly Revenue Reporting Form, the Hauling Source-Separated Information Form, and the Quarterly Diversion Rate Reporting Form, a summary of the quarterly revenue and hauler fees, and the tonnage of material diverted for purposes of

calculating the diversion rate for the hauler. The quarterly forms listed above are due on or before the first day of the second month immediately following the end of the quarter (the 1st Quarter is January through March, the 2nd Quarter is April through June, the 3rd Quarter is July through September, and the 4th Quarter is October through December). All tonnages and the calculated diversion rate shall be rounded off to the nearest tenth.

F. Additional reports to the City thereon, at the time, in the manner, and in form and substance satisfactory to the City Manager.

G. Any registered or franchised commercial hauler that fails to file the reports required by this Chapter shall constitute cause for termination or suspension of its commercial hauler authorization pursuant to this Chapter.

30.50.200 Audit.

The City may audit the books, accounts and records of commercial haulers and commercial haulers shall provide the City with copies requested thereof within two (2) weeks of the City's request or access thereto at locations within the County. The City may elect to perform an on-site review of all internal controls over accounting for disposal tonnages, including the handling of dump tags/dispatch logs or other documentation used by commercial haulers to determine revenue for trash hauling and the corresponding hauler fees paid to the City. Records may include, without limitation, financial and operating records with respect to gross receipts, detailed lists of all transactions linked to the driver dispatch log, as well as customer subscriptions and accounts establishing a location within the City, and any other records described in EGMC Section 30.50.190. If the City's audit demonstrates to the satisfaction of the City that the amount of commercial refuse hauler fees remitted by the commercial hauler to the City was in error, then within thirty (30) days following the City's submission of the results of the audit to the commercial hauler, the commercial hauler shall pay the City the following amount:

A. The understated commercial refuse hauler fees; plus

B. The late fees provided in EGMC Section 30.50.170; plus

C. The City's costs of conducting the audit, including fees paid to any independent auditors or contractors and time spent by City employees.

30.50.210 Insurance.

A. Each commercial hauler shall maintain, at its own expense, insurance coverage as specified in the registration application or franchise agreement, or as established by the

City Manager. All such insurances shall remain in effect, uninterrupted, throughout the term of the commercial hauler authorization.

B. The minimum insurance coverage shall include the following items, in amounts determined by the City Manager: Insurance Services Office Commercial General Liability coverage, Insurance Services Office covering Automobile Liability, and Worker's Compensation insurance as required by the Labor Code of the State of California and Employer's Liability Insurance.

C. All insurance policies shall contain a provision requiring that written notice be mailed to the City by the insurer not less than thirty (30) days in advance of the cancellation, modification, or reduction of the insurance, or failure to renew such insurance, whether by the insurer or insured, and whether for nonpayment of premium or otherwise.

D. Any act, omission or circumstance which results in the commercial hauler to be out of compliance with the requirements of this Section shall constitute grounds for the immediate suspension of the right to collect commercial solid waste, without advance notice or hearing, pending re-establishment of compliance by the authorized hauler with the requirements hereof.

30.50.220 Violation by grantee – Liability for damages to the City – Liability for operating without a contract.

A. The grantee of a registration or franchise under this Chapter shall be liable to the City for all damages proximately caused or resulting from the failure of the grantee to faithfully observe and perform any provisions of such authorization and/or any provision of this Chapter. If legal proceedings are necessary to enforce the provisions of the authorization against any grantee of said authorization, said grantee shall be liable for the value of the services of attorneys and of other personnel as well as the expenses of the City that are necessary to gain compliance.

B. Except as provided in EGMC Chapter 30.40, any person providing services consisting of collecting, transporting, or disposing of refuse in the City without the benefit of a valid authorization with the City shall be subject to criminal prosecution for violation of this Chapter and shall be liable to the City for the value of the services of attorneys, other personnel, and expense of the City. Such person shall also be liable for the fees the City would have been entitled to if said person had been the duly authorized collector under contract with the City.

Chapter 30.60

BUSINESS RECYCLING

Sections:

30.60.010 Purpose and declarations.

30.60.020 Participation in recycling program.

30.60.030 Requirements for covered generators.

30.60.040 Special requirements.

30.60.050 Designation of recyclable materials.

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30.60.090 Requirements for recycling plans.

30.60.100 Requirements for authorized recyclers.

30.60.110 Requirements for self-hauling.

30.60.120 Appeal upon denial of certificate of operation or self-haul certificate.

30.60.130 Reporting.

30.60.140 Exemptions from recycling standards.

30.60.010 Purpose and declarations.

A. It is the intent and purpose of this Chapter to promote recycling by: 1) requiring businesses, non-residential properties, multi-family properties, and single-family residential properties managed by an association or other organization in the City to keep recyclable materials separate from all other solid waste for recycling; 2) requiring businesses, non-residential properties, multi-family properties, and single-family residential properties managed by an association or other organization to provide signs and labeled containers for the storage and collection of recyclable materials; and 3) requiring businesses, non-residential properties, multi-family properties, and single-family residential properties managed by an association or other organization to either

self-haul or enter into a written service agreement for the collection and subsequent delivery of recyclable materials to a recycling facility.

B. It is further the purpose of this Chapter to provide a mechanism to require the implementation of recycling programs for businesses, non-residential properties, multi-family properties, and single-family residential properties managed by an association or other organization within the City, to thereby enable the City to meet and maintain the fifty percent (50%) waste diversion requirements set forth in PRC Section 41780(a)(2), and as may be amended from time to time.

30.60.020 Participation in recycling program.

All businesses, non-residential properties, multi-family properties, and single-family residential properties managed by an association or other organization, shall participate and cooperate in a recycling program. Each business, non-residential property, and multi-family property (whoever contracts for solid waste removal service, owners or generators), shall subscribe to a recycling service or self-haul recyclable materials to a recycling facility. Single-family residential properties managed by an association or other organization shall also subscribe to recycling services or self-haul recyclable materials to a recycling facility if they are not participating in a residential curbside collection recycling program.

30.60.030 Requirements for covered generators.

A. Each covered generator shall be responsible for ensuring and demonstrating its compliance with the following requirements:

1. Source-separate designated recyclable materials from solid waste;
2. Subscribe to a basic level of recycling service that includes, at a minimum, the collection of designated recyclable materials; and
3. Enter into a written service agreement with a registered or franchised commercial hauler, or authorized recycler, for the collection of designated recyclable materials; or complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with the provisions of this Chapter or any other applicable law or regulation. A copy of such form shall be made available to the City Manager upon request.

B. Each covered generator shall provide recyclable materials containers for designated recyclable materials in multi-family residential rental units and in maintenance and work areas where recyclable materials may be collected and/or stored.

C. Each covered generator shall prominently post and maintain one or more signs where designated recyclable materials are collected and/or stored that set forth what materials are required to be source-separated in addition to collection procedures for such materials.

D. Each covered generator shall notify and instruct employees and tenants in writing, of applicable source-separation requirements, including a list of designated recyclable materials that are required to be source-separated for recycling. A copy of such instructions shall be provided to the City Manager upon request.

E. Each covered generator shall ensure that designated recyclable materials generated at their site will be taken only to a recycling facility and not to a landfill for disposal by complying with all requirements under this Chapter.

F. The recycling plan, service agreement, and self-haul form, or other documents pertaining to this Chapter, shall be available for inspection by the City Manager at the principal location of the covered generator during normal business hours.

G. Nothing in this Chapter shall abridge the right of any covered generator, or any other person, to sell or exchange at fair market value its own recyclable materials which are source-separated for reuse and recycling.

H. No registered or franchised commercial hauler, or authorized recycler, shall be held liable for the failure of its customers to comply with such regulations.

I. No covered generator shall be liable for the failure of their registered or franchised commercial hauler, or authorized recycler, to deliver designated recyclable materials to a recycling or processing facility.

J. Each multi-family residential property and each single-family residential property managed by an association or other organization (whoever contracts for solid waste removal service, owners or generators), shall subscribe to a recycling service that diverts a minimum of thirty percent (30%) of total capacity for recycling materials.

K. Each multi-family residential property and each single-family residential property managed by an association or other organization (whoever contracts for solid waste removal service, owners or generators), shall place recyclable materials containers in a location or locations at least as convenient to tenants as the solid waste containers.

M. After taking reasonable measures to inform tenants who are covered generators of recycling requirements and responsibilities, no property owners or property managers who are covered generators, shall be cited for non-compliance with this Chapter as a result of the failure of his or her rental property tenants to source-separate designated recyclable materials from solid waste. Such

reasonable measures may include, but are not limited to, lease agreement provisions requiring tenants to source-separate recyclable materials and periodic tenant education efforts, such as the distribution of informational flyers or handouts.

N. Every multi-family residential unit shall have a recyclable materials container provided by either the multi-family residential property owner or by the multi-family residential tenant as part of their rental agreement.

30.60.040 Special requirements.

In addition to any and all requirements that apply to the recycling of designated recyclable materials throughout the City above, collection service received or provided in the City shall be subject to the following additional special requirements:

A. No recycling, automatic lift containers or bins within the collection area of the City shall be placed or located in such a manner that blocks or impedes passage through an alley or through any doorway of any building adjoining an alley, notwithstanding that such building may be abandoned or otherwise out of use; and

B. Compliance with the above special requirements shall be the sole responsibility of the covered generator.

30.60.050 Designation of recyclable materials.

A. Designated recyclable materials shall be source-separated from solid waste before collection, removal, transportation or disposal pursuant to this Chapter. The City Manager shall specify designated recyclable materials that shall be source-separated by all covered generators pursuant to EGMC Section 30.60.030. The specifications for designated recyclable materials shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.

B. Furthermore, all covered generators are encouraged to recycle additional materials, whether or not they have been specified as designated recyclable materials.

30.60.060 Ownership of recyclable materials.

A. All designated recyclable materials placed in automatic lift containers, bins or roll-off containers shall be considered owned by, and the responsibility of, either the registered or franchised commercial hauler, or authorized recycler. Without permission of either the registered or franchised commercial hauler, or authorized recycler, no person shall collect designated recyclable materials placed in automatic lift containers, bins or roll-off containers for recyclable materials by customers.

B. Except as authorized by EGMC Section 30.60.110, it shall be unlawful for any

person to engage in the business of collecting, removing or transporting, or to otherwise organize, direct or sponsor the collection, removal or transportation of designated recyclable materials who is not either a registered or franchised commercial hauler, or an authorized recycler.

30.60.070 Requirements for registered or franchised commercial haulers.

A. Commercial haulers shall be registered or franchised pursuant to the provisions of EGMC Chapter 30.50, and such registration or franchise shall be in full force and effect.

B. Registered or franchised commercial haulers shall offer collection service and automatic lift containers, bins or roll-off containers for designated recyclable materials sufficient to accommodate the quantity and types of designated recyclable materials to all its solid waste customers.

C. Registered or franchised commercial haulers shall equip and provide automatic lift containers, bins and roll-off containers for designated recyclable materials with locks and/or other suitable features to prevent theft of recyclable materials.

D. Registered or franchised commercial haulers may subcontract for collection of designated recyclable materials, so long as the subcontractor holds a current registration or franchise with the City, or is an authorized recycler.

E. Registered or franchised commercial haulers shall conduct all activities in accordance with all applicable State and local laws and best management practices. Vehicles, equipment and containers shall be kept in a clean and well-maintained condition.

F. Registered or franchised commercial haulers shall not take a customer's designated recyclable materials to a landfill or other disposal site, but to a recycling facility.

G. Registered or franchised commercial haulers, upon request, shall provide the City Manager with a copy of a service agreement, recycling plan or other document (e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials are being taken to a recycling facility. The service agreement, recycling plan or other documents shall be available for inspection by the City Manager at the registered or franchised commercial haulers' place of business during normal business hours.

H. City staff may audit all registered or franchised commercial haulers' records.

30.60.080 Requirements for service agreements.

A. Registered or franchised commercial haulers, and authorized recyclers, shall execute a written service agreement with all covered generators, as required in EGMC

Section 30.60.030, before the registered or franchised commercial hauler, or authorized recycler, begins to collect solid waste and/or designated recyclable materials.

B. Service agreements shall incorporate, but are not limited to the following terms and conditions:

1. Be clearly labeled as a service agreement;
2. Describe the solid waste and/or recycling collection services to be provided by the registered or franchised commercial hauler, or authorized recycler, and the cost for providing such services to the customer;
3. Clearly state the initial term and renewal terms;
4. Allow for any term that is mutually agreed to by the customer and the registered or franchised commercial hauler, or authorized recycler, but recognizing that the hauler's registration or franchise, or the recycler's authorization, granted by the City shall remain in full force and effect throughout the term of the agreement;
5. May contain automatic renewal for successive periods of no longer than one (1) year, unless either party gives written notice of termination by certified or registered mail at least sixty (60) days prior to termination date of the current agreement;
6. May be amended as mutually agreed upon by the customer and the registered or franchised commercial hauler, or authorized recycler;
7. Customers are to receive a written notice of price increases not less than thirty (30) days prior to the effective date of such price increase;
8. Registered or franchised commercial haulers, and authorized recyclers, shall respond to customer inquiries regarding the service agreement within thirty (30) days;
9. Include language stating that collection containers will be removed from the property of a customer within thirty (30) days of final termination of services to the customer;
10. Not require customers to pay over three (3) months liquidated damages during the renewal term and over six (6) months liquidated damages during the initial term of the service agreement;
11. Not require a customer to give a registered or franchised commercial hauler, or authorized recycler, the exclusive right to provide recycling collection services as a condition of a service agreement, unless the customer affirmatively indicates

that is its desire;

12. Not require customers to give notice of any offer by a competitor or require customers to give registered or franchised commercial haulers, or authorized recyclers, the right to respond to such an offer; and
13. Registration or franchises shall be in full force and effect for the service agreement to be effective.

C. The requirements for service agreements contained in this section shall be incorporated into all new service agreements upon enactment of this Chapter. Existing service agreements between a registered or franchised commercial hauler, or authorized recycler, and a customer, executed before the effective date of this Chapter, shall remain in force for the remainder of the existing contract and shall be governed by the terms and conditions specified in the existing service agreement, provided that such existing service agreements shall comply, to the extent allowable by law with the new recycling programs established by this Chapter.

D. National contracts or agreements (contracts or agreements between waste management companies and multi-sited, waste-generating companies that operate throughout the country) are exempt from the requirements of contract length and renewal terms.

30.60.090 Requirements for recycling plans.

A. The City Manager shall provide a recycling plan template to each registered or franchised commercial hauler in order to document compliance with this Chapter for each covered generator.

B. Registered or franchised commercial haulers shall present, complete, and sign a recycling plan for each covered generator located in the City.

C. Registered or franchised commercial haulers shall maintain a copy of each completed recycling plan, and submit to the City Manager for audit purposes within five (5) days of receipt of a written request.

D. Registered or franchised commercial haulers shall complete and file recycling plans for fifty percent (50%) of their covered generator customers no later than September 1, 2010, and one hundred percent (100%) no later than January 1, 2011.

E. Registered or franchised commercial haulers that fail to comply with the requirements of this Chapter shall be subject to penalties under EGMC Chapters 30.10 and 30.50.

30.60.100 Requirements for authorized recyclers.

A. No person shall provide service as an authorized recycler in the City without having been granted a Certificate of Operation from either SWA or the City.

B. The requirements for obtaining a Certificate of Operation from the City include, but are not limited to, the following:

1. All authorized recyclers shall complete an application and provide information and documentation that includes:
 - a. The name, address and telephone number of the applicant.
 - b. A description of the vehicles that the applicant will use to collect recyclable materials, including the make, model, and serial number or Vehicle Identification Number (VIN) of each vehicle.
 - c. Documentation that the authorized recycler shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, causes of action and the payment of all attorneys fees and other related costs and expenses arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of authorized recycler or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work.
 - d. Documentation that the authorized recycler shall defend, indemnify and hold harmless the City, including, but not limited to, elected officials, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from, the authorized recycler's activities pursuant to this Chapter. The authorized recycler shall defend with counsel selected by the City.
 - e. Without limiting the authorized recycler's indemnification, the authorized recycler shall maintain in force at all times during the term of this authorization certificate and any extensions or modifications thereto, insurance as specified in the addendum of the Certificate of Operation agreement. It is the responsibility of the authorized recycler to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance

requirements specified in the addendum of the Certificate of Operation agreement.

- f. A written statement certifying that the applicant has reviewed and will comply with all of the requirements in the Certificate of Operation and this Chapter.;
2. If the City Manager determines that the applicant complies with the terms of this Chapter, the City Manager shall grant a Certificate of Operation. The City Manager shall deny an application for a Certificate of Operation if the City Manager determines that the applicant does not comply with the terms of this Chapter;
 3. The Certificate of Operation shall remain in effect for a period of five (5) years; and
 4. The City Manager may revoke a Certificate of Operation if the City Manager determines after providing thirty (30) days written notice and an opportunity for a hearing, that an authorized recycler has violated the provisions in the Certificate of Operation or any applicable law.
- C. Authorized recyclers shall offer collection service and automatic lift containers, bins or roll-off containers for designated recyclable materials sufficient to accommodate the quantity and types of recyclable materials to all its customers.
- D. Authorized recyclers may subcontract for collection of designated recyclable materials; so long as the subcontractor is a registered or franchised commercial hauler, or authorized recycler.
- E. Authorized recyclers shall conduct all activities in accordance with all applicable laws, the City's Municipal Code and best management practices. An authorized recycler's vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
- F. An authorized recycler's automatic lift containers, bins or roll-off containers for recyclable materials shall be clearly identified with the name, or recognizable corporate or company logo, and phone number of the authorized recycler such that the identification is legible from a distance of fifty feet (50'0").
- G. Authorized recyclers shall equip and provide to all recycling, automatic lift containers, bins or roll-off containers for designated recyclable materials locks and/or other suitable features to prevent scavenging of recyclable materials.
- H. Authorized recyclers shall deliver a customer's recyclable materials to a recycling facility, and not to a landfill or other site for disposal.

I. Authorized recyclers, upon request, shall provide the City Manager with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials are being delivered to a recycling facility. The service agreement or other document shall be available for inspection by the City Manager at the authorized recycler's place of business during normal business hours.

J. The City Manager may audit all authorized recyclers' recycling records.

30.60.110 Requirements for self-hauling.

A. A covered generator may haul or transport designated recyclable materials generated and collected at its business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization, to a recycling facility, rather than hiring a registered or franchised commercial hauler, or authorized recycler, only if an owner, generator or employee of the entity completes this activity by utilizing a vehicle owned by either an employee or the entity.

B. A covered generator that hauls or transports designated recyclable materials generated and collected at its business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization, to a recycling facility without the utilization of a registered or franchised commercial hauler, or authorized recycler, shall complete and retain on-site a self-hauling form that certifies that all self-hauling activities will be completed in accordance with the provisions of all applicable laws or regulations. The self-hauling form shall be made available to the City Manager upon request. At a minimum, the covered generator shall provide the following information on the self-hauling form:

1. The name, address and telephone number of the covered generator that is signing the self-hauling form;
2. A list of the types of recyclable materials being self-hauled;
3. For each type of recyclable material, the amount that is being taken from the business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization, to a recycling facility on a quarterly basis; and
4. The name and address of the recycling facility(s).

C. The self-hauling form shall contain a written statement signed by the business, non-residential property, multi-family property, or single-family residential property

managed by an association or other organization owner or generator, certifying that the owner or generator is in compliance with the requirements of this Chapter.

D. The City Manager may restrict or prohibit self-hauling by a person if the City Manager determines, after providing thirty (30) days written notice and an opportunity for a hearing, that the person's self-hauling activities violate the provisions of this Chapter or any other applicable law or regulation.

30.60.120 Appeal upon denial of certificate of operation or self-haul certificate.

A. Within thirty (30) days of written notification of denial, or within sixty (60) days of the City Manager's failure to act on the Certificate, applicant has the right to meet with the City Manager to review the items cited in the written notice and provide any additional evidence to support an approval. Within fifteen (15) days of such meeting, the City Manager will make a final, written determination of the application based on the reviews of additional evidence, together with the original application. The City Manager will send a copy of all final, written determinations, including reasons for denial, if any, to both the applicant and the City Council.

B. Applicant may, within ten (10) days after receiving the final denial from the City Manager request a public hearing before the City Council by submitting to the City Clerk a written petition for an appeal hearing. If a public hearing is requested, the City Clerk shall set the matter for hearing at the next possible regularly scheduled City Council meeting or any later date as agreed upon by the applicant and the City Clerk. At such hearing, applicant may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the City Council may demand from the applicant such additional information as the City Council may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing, and the applicant shall have the burden of proof to show facts demonstrating that the applicant does, in fact, meet the requirements of this Chapter. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The City Council will provide applicant with a written explanation of its determination on the application within thirty (30) days of such hearing. The City Council's decision is final.

30.60.130 Reporting.

A. Registered or franchised commercial haulers shall provide the following reports to the City, no later than the fifteenth (15th) day of each month for the preceding reporting period. Reporting shall occur on a monthly basis during the implementation period and quarterly thereafter, or as requested by the City Manager. Reports shall include, at a minimum, the following information:

1. The total number of covered generators in the City that are in compliance with this Chapter and for which a completed recycling plan is on file;
2. The total number of covered generators that are customers of the registered or franchised commercial hauler in the City;
3. The total number of covered generators that have completed a recycling plan but remain in violation of this Chapter for any reason; and
4. The total weekly yardage of solid waste collection service and designated recyclable materials collection service provided to covered generators during the reporting period.

B. The due dates for reporting during the implementation period are:

Reporting Period	Due Date
June 2010	July 15, 2010
July 2010	August 15, 2010
August 2010	September 15, 2010
September 2010	October 15, 2010
October 2010	November 15, 2010
November 2010	December 15, 2010
December 2010	January 15, 2011

The ongoing due dates for reporting beyond the implementation period are:

Reporting Period	Due Date
Jan-Feb-Mar 2011	May 1, 2011
Apr-May-Jun 2011	August 1, 2011
Jul-Aug-Sept 2011	November 1, 2011
Oct-Nov-Dec 2011	February 1, 2012

...and continuing on in this manner...

C. If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent and the registered or franchised commercial hauler shall pay to the City a delinquent report charge in amounts set by resolution of the City Council.

D. Registered or franchised commercial haulers' failure to file the reports required by this Chapter shall constitute cause for termination or suspension of its authorization.

E. Self-haulers shall prepare quarterly reports to be kept on-site identifying, at a minimum, the following:

1. The recyclable materials tonnage collected and removed within the City region during the previous quarter; and
2. The location of the recycling facility(s) to which the recyclable materials were taken during the previous quarter.

F. The City Manager shall provide and establish guidelines, forms and other appropriate material to assist registered or franchised commercial haulers, authorized recyclers and self-haulers in preparing the reports required by this Chapter.

30.60.140 Exemptions from recycling standards.

A. Notwithstanding any other provision herein, a business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization owner or generator, shall be exempt from the requirements of this Chapter if the owner or generator subscribes to less than four cubic yards (4 yd³) of solid waste collection service per week.

B. Notwithstanding any other provision herein, a covered generator shall not be required to source-separate recyclable materials if the business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization owner or generator demonstrates to the City Manager that there is no collection service or other system available for recycling such material.

C. Notwithstanding any other provision herein, a covered generator shall be exempt from the requirements in EGMC Section 30.60.030 if all of the generators on the owner's business, non-residential property, multi-family property, or single-family residential property managed by an association or other organization are exempt from, or not required to comply with, the provisions of EGMC Section 30.60.030, or if designated recyclable materials are not being generated by any activities occurring on the covered generator's property.

D. Covered generators may be exempted by the City Manager if an exemption is granted after a site visit (requested by the covered generator) determines:

1. That there is not adequate storage space for automatic lift containers, rolling carts, bins or roll-off containers for designated recyclable materials on site and that it is infeasible for the covered generator to share automatic lift containers, rolling carts, bins or roll-off containers for designated recyclable materials with another covered generator on an adjoining property; or
2. That compliance with this Chapter results in a violation of the City's Zoning Code, including City zoning regulations for minimum parking spaces. If the City Manager determines that it is feasible for recycling containers to be

placed on site or shared with an adjoining generator, the covered generator will be responsible for compliance with this Chapter.

E. An application for an exemption shall be submitted to Integrated Waste on a form prescribed by the City Manager. After reviewing the request, the City Manager shall either approve or disapprove the exemption request.

F. The following persons shall automatically be exempt from the requirements of this Chapter: municipal corporations and other governmental agencies using their own vehicles and employees engaged in the collection, transportation or disposal of designated recyclable materials within the City.

Chapter 30.70

CONSTRUCTION AND DEMOLITION (C&D) DEBRIS REDUCTION, REUSE AND RECYCLING

Sections:

30.70.010 General requirements.

30.70.020 Covered project.

30.70.030 Requirements of C&D generators.

30.70.040 C&D debris ownership.

30.70.050 Waste management plan.

30.70.060 Management of C&D debris.

30.70.070 Reporting.

30.70.080 Inspection and audit authority.

30.70.090 Use of containers.

30.70.100 Probation.

30.70.010 General requirements.

- A. All mixed C&D debris and unrecyclable C&D debris, including that from sources other than covered projects, shall be contained in a manner so as to prevent blowing or scattering.
- B. Mixed C&D debris and unrecyclable C&D debris, including that from sources other than covered projects, shall be hauled by a registered or franchised commercial hauler, or by the person who generated that mixed C&D debris.
- C. No C&D debris, including that from sources other than covered projects, shall be deposited on any roadway.
- D. No C&D debris shall be deposited on any real property without a solid waste facilities permit for that real property, whether public or private.
- E. No C&D debris shall be deposited in any river, stream or other waterway, or in any sanitary sewer or storm drainage system.
- F. No C&D debris, including any from sources other than covered projects, shall be burned.

30.70.020 Covered project.

All additions, remodels or new construction projects within the City with an established threshold set by Resolution of the City Council, and all demolition projects, are subject to this Chapter.

30.70.030 Requirements of C&D generators.

- A. Each C&D generator from a covered project shall be responsible for ensuring and demonstrating their compliance with this chapter and shall recycle all recyclable C&D material by any of the following methods:
 - 1. Source separating recyclable C&D material and recycling it; and/or
 - 2. Self-hauling mixed C&D debris containing recyclable C&D material to a Certified C&D Sorting Facility; and/or
 - 3. Depositing mixed C&D debris containing recyclable C&D material in a container provided by a registered or franchised commercial hauler, who shall deliver that load of mixed C&D to a Certified C&D Sorting Facility; and/or
 - 4. Any other method described in detail on the Waste Management Plan (WMP) and approved by the City Manager that achieves the diversion of recyclable material.
- B. Each C&D generator from a covered project shall notify and instruct all employees

and subcontractors of the recycling requirement and the methods, described in the WMP, to be employed in meeting that requirement.

C. The approved WMP and other waste management documents shall be available for inspection by the City Manager at the permitted jobsite.

D. Each C&D generator from a covered project shall keep record of all bills, receipts, or scale-house tickets, for hauling or disposal or recycling services, including that of any subcontractors, on file for a period of one (1) year from the date of final inspection by Building Safety and Inspection (BSI) or the issuance of the Certificate of Occupancy, whichever is later.

E. Nothing in this Chapter shall abridge the right of any C&D generator to sell or exchange at fair market value its own recyclable materials which are source-separated for reuse and recycling.

30.70.040 C&D debris ownership.

C&D debris lawfully deposited in bins, drop-boxes or other containers used by a registered or franchised commercial hauler for collection for either disposal or recycling shall become the property of the registered or franchised hauler upon its deposit in any such container.

30.70.050 Waste management plan.

A. Any person applying for a permit for a covered project shall submit a completed WMP, on a form provided by Integrated Waste (IW), as part of the jobsite waste and recycling documentation for approval by BSI.

B. The WMP shall provide the following:

1. The types of waste materials to be generated from the project;
2. The manner in which C&D debris will be managed on site, for example in dumpsters, bins or corrals;
3. The manner in which recyclable C&D debris will be diverted, for example by source separation of recyclable C&D debris or by delivery to a Certified C&D Sorting Facility, or both;
4. The person or persons who will transport C&D material, for example identification of a registered or franchised commercial hauler, independent re-users or recyclers, and indication of any self-hauling activity to be employed; and

5. Identification of all disposal and recycling facilities, including Certified C&D Sorting Facilities, where C&D debris will be delivered.

C. All WMPs submitted shall be accompanied by a processing fee. The fee shall be set by Resolution of the City Council.

D. WMPs deemed complete according to the requirements of this Chapter shall be approved by BSI and will be in full force and effect for the duration of the project. Upon approval, BSI will forward a copy of the approved WMP to IW, or BSI may forward the WMP to IW for approval in cases of projects with special circumstances.

E. A copy of the WMP as well as any signed service agreement with a registered or franchised commercial hauler shall be kept readily available on the project site in the jobsite permit folder.

30.70.060 Management of C&D debris.

All vehicles or containers to be used for the collection of mixed C&D shall prominently display the identification of the registered or franchised commercial hauler, or self-hauler.

30.70.070 Reporting.

A. Registered or Franchised Commercial Haulers. Any registered or franchised commercial hauler deemed in compliance with EGMC Chapter 30.50 is deemed in compliance with this Chapter.

B. Authorized Recyclers. Any Authorized Recycler deemed in compliance with EGMC Chapter 30.60.100 is deemed in compliance with this Chapter.

C. Permittees. Within thirty (30) days after the issuance of a Certificate of Occupancy or the approved final inspection, or at the time of issuing the last Certificate of Occupancy for units within a residential phased project of any covered project, or within thirty (30) days after the date of final inspection of the project by BSI, the permittee shall submit to IW the following documentation:

1. The completed Waste Log (WL) from the jobsite waste and recycling documentation, including dates, types and weights of waste removal, identification of haulers, and identification of disposal or recycling facilities; and
2. Any additional information requested by IW and/or submitted by the applicant that is relevant to compliance with this chapter, including but not limited to receipts or scale-house tickets from disposal and/or recycling facilities.

D. General. All permittees shall make reasonable efforts to ensure that all C&D debris

diverted or sent to a landfill is measured and recorded using the most accurate method of measurement available. To the extent practical, C&D debris shall be weighed by measurement on certified scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For C&D debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the permittee shall use conversion rates approved by the City Manager for this purpose.

30.70.080 Inspection and audit authority.

A. Each permittee shall at all times maintain accurate and complete records of all C&D debris generated, transported recycled and/or disposed of; the hauler of such C&D debris; and the final destination of such C&D debris. The permittee's books, accounts and records reasonably necessary for the enforcement of this code shall be made available for inspection, examination and audit during normal business hours by authorized officers, employees and agents of the City. The City Manager shall give written notice at least ten (10) days prior to any inspection, audit or examination of these records.

B. Accurate and complete records shall be maintained by the permittee for a minimum period of twelve (12) months immediately following the date of the issuance of the Certificate of Occupancy or the project final inspection, whichever is later.

C. Where the City Manager determines that an audit is necessary, the permittee shall be responsible for reimbursement of audit costs, including any City or consultant services, to perform audits of accounts of all C&D debris generated, transported, recycled and/or disposed of; the hauler of such C&D debris; and the final destination of such C&D debris.

30.70.090 Use of containers.

No person other than a customer who has contracted for service with an registered or franchised commercial hauler, or a person with such customer's consent, shall deposit solid waste into a C&D debris box, drop box, roll-off container, pen, compactor or any other container placed in the City by a registered or franchised hauler for the purpose of receiving C&D debris.

30.70.100 Probation.

A. Except as otherwise expressly provided, the provisions of this Chapter shall be administered and enforced within the City by enforcement officials designated by the City Manager.

B. The remedies set forth herein are cumulative to any other remedy available to the City. Nothing contained herein shall limit or be deemed to prevent the City from pursuing any other available remedy under this Code, EGMC Title 30, or any other applicable law.

C. Probation. In addition to any other remedies, the City Manager is authorized to impose probationary measures on a permittee for violations of this ordinance. Probationary measures will remain in effect for one (1) year or until the permittee provides documentation satisfactory to the administrator verifying that the reason for imposition of the probationary measures no longer exist. Probationary measures imposed may include, but are not limited to, any combination of the following:

1. For two (2) or more violations of this ordinance, a recycling performance deposit may be required prior to approval of the permittee's next WMP. A recycling performance deposit will be calculated as one percent (1%) of the stated project valuation but will not exceed Ten Thousand and no/100^{ths} Dollars (\$10,000.00).

The recycling performance deposit, which may be imposed for two (2) or more violations of this Chapter, shall be released in full upon a showing that the permittee has fully complied with the requirements of this Chapter, and complied with the terms and conditions of the approved WMP, and complied with any other probationary measures imposed, for the duration of the project. If the City Manager determines that the permittee only partially complied with the requirements of this Chapter, and complied with the terms and conditions of the approved WMP, and complied with any other probationary measures imposed, for the duration of the project, then the City Manager may authorize a partial release of the recycling performance deposit.

2. For any violation of this ordinance, the WMP for the permittee's next project may be required to be submitted directly to IW for approval.
3. For any violation of this Chapter, submittal of all receipts or scale house tickets from disposal and/or recycling facilities in lieu of a summarizing WL may be required upon completion of the permittee's next project.

Chapter 30.80

SOLID WASTE FACILITIES

Sections:

30.80.010 Sacramento Regional Solid Waste Authority (SWA) facility.

30.80.020 Inspection.

30.80.030 Posting rates.

30.80.010 Sacramento Regional Solid Waste Authority (SWA) facility.

The City recognizes that the County of Sacramento, through the Sacramento Regional Solid Waste Authority (SWA), is the Local Enforcement Agency (LEA) designated by the California Integrated Waste Management Board to regulate, survey, monitor, and ensure the lawful operation of transfer/processing facilities, recycling facilities, compost facilities, construction and demolition debris (C&D) sorting facilities, landfills, and like solid waste disposal operations. Therefore, any such facility or operation certified, licensed, or otherwise approved by SWA to engage in solid waste handling or disposal is deemed adequate and approved for the sorting, recycling, handling, disposal, and any similar activity to process solid waste generated in or originating from the City or within its jurisdiction. This approval by the City is operative notwithstanding the SWA-certified or approved facility or operation is located outside of the territorial jurisdiction of SWA.

30.80.020 Inspection.

The owner or operator of a facility shall allow the Environmental Compliance Division, Sacramento County Environmental Management Department staff and/or representatives of SWA and/or City representatives to inspect the facility during hours of operation and at other times.

30.80.030 Posting rates.

The owner or operator of a site that accepts delivery of solid waste from the public shall post facility rates in a visible location at the entrance to the facility or site.

Chapter 30.90

SPACE ALLOCATION AND ENCLOSURE DESIGN GUIDELINES FOR TRASH AND RECYCLING

Sections:

30.90.010 Purpose.

30.90.020 Integrated waste management plan.

30.90.030 Waste storage, enclosure design and location.

30.90.040 Determining waste volume and sizing containers.

30.90.050 Commercial locations: enclosures for front-end loading containers.

30.90.060 Pads and access areas.

30.90.070 Container dimensions.

30.90.080 Roll-off containers (debris boxes).

30.90.090 Compacting units.

30.90.010 Purpose.

A. The City established *Space Allocation and Enclosure Design Guidelines for Trash and Recycling*, as may be amended by Council resolution, which is a document that provides recycling and waste collection requirements for all developments City-wide. Integrated collection areas with recycling components assist in the reduction of waste materials. The written document provides information and resources for designing trash and recycling sites that will be used by building occupants in new developments or significant remodels. New commercial and multi-family developments of five (5) units or more, and improvements that add thirty percent (30%) or more to the existing floor area, shall include adequate, accessible, and convenient areas for collecting and loading recyclable material.

B. The *Space Allocation and Enclosure Design Guidelines for Trash and Recycling* document includes charts containing the following information:

1. Height, width and length of residential carts serviced by the franchised residential hauler.
2. Dimensions (height, width and length) of typical enclosures required for front-load bin containers.
3. Dimensions of typical front-load bins.
4. Container dimensions for lowboys or highside containers.
5. Clearance distances for front-end loading vehicles regarding vertical, lateral and turning radius requirements.
6. Clearance for roll-off containers and vehicles regarding vertical, lateral and

service area length minimums.

7. Minimum space allocation requirements for containers based on the land use and the intended use of the space.

C. If the standards in EGMC Chapter 30.90 conflict with the City's Zoning Code, the Zoning Code shall prevail.

30.90.020 Integrated waste management plan.

Each applicant for a land use permit is required to develop and submit an integrated waste management plan as part of the permit process. The plan shall demonstrate those steps the applicant will take to meet the State mandate to reduce or divert fifty percent (50%) of the waste generated by all residences and businesses in the City.

30.90.030 Waste storage, enclosure design and location.

A. Each integrated waste management plan shall include an estimate of the amount of capacity required, the location and placements of the containers, and a summary of the waste management services to be provided at the location.

B. Trash and recycling capacity should be equal in terms of volume (exceptions can be made on a case-by-case evaluation). They shall be located side-by-side in the enclosures or in the same central storage area. Changing proportions of trash and recycling in time can be accommodated by adjusting the frequency of collection.

C. For commercial, non-residential, and multi-family properties, and single-family residential properties managed by an association or other organization, greenwaste bins shall be located away from trash and recycling to prevent contamination by the occupants. Since the greenwaste bins will only be used by the landscaper, they don't have to be as convenient as trash and recycling.

D. Indoor Collection. Collection containers for trash and recycling shall be located side-by-side. Adequate indoor space shall be allocated for recycling such that the location is next to trash in kitchens. When chutes are used, trash and recycling chutes shall be located side-by-side.

E. Multiple or Single Shared Waste Enclosure Design and Location(s). Trash enclosures containing cans, carts, or dumpsters are appropriate for locations where the occupants will be taking their own trash and recycling to the site and placing it in the shared containers themselves. Trash and recycling containers that are stored outdoors at a commercial, non-residential, or multi-family property, or at single-family residential property managed by an association or other organization, shall be in enclosures or roll-off containers that are placed out of view of the general public. The enclosure site shall

be owned, leased or rented by the building occupants. Commercial generators do not have the right to place waste in the public right of way, parking lots, or on private property.

F. Commercial generators that will use dumpsters shall design the enclosure, at a minimum, for three yard (3 yd) containers. The tenants may choose any dumpster size they need, but the enclosure shall be able to accommodate different tenants with varying waste production.

G. In residential complexes, enclosures shall have a pedestrian gate or walk-through that does not necessitate the opening of large gates used for servicing containers, or a walk-through wide enough to accommodate Americans with Disabilities Act (ADA) requirements. If a gate is used, seniors, children and people with disabilities shall be able to open the gates. For senior complexes where residents take out their own trash, the maximum dumpster size shall not exceed two cubic yards (2 yd³), and shall be within an enclosure. Larger dumpsters are more space-efficient, but require users to lift bags above shoulder height with one (1) hand while lifting the lid with the other hand. This may be difficult or impossible for seniors or disabled people.

H. Commercial waste enclosures shall be a maximum distance of two hundred fifty feet (250'0") from the nearest point of the building serviced. For senior residential complexes where occupants empty their own trash and recycling, a maximum distance of one hundred fifty feet (150'0") shall be permitted. The path of travel from building to dumpster shall be free of stairs, textured surfacing, and other impediments.

30.90.040 Determining waste volume and sizing containers.

A. Builders shall use the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling* or consult with Integrated Waste (IW) to determine the amount of waste capacity needed. Equal space shall be allocated for trash and recycling.

B. All new buildings and remodeled buildings shall adequately provide outdoor trash and recycling storage. Interior alteration permits that result in a change to a more intensive use shall not be approved unless adequate new outdoor trash and recycling storage is provided on site.

30.90.050 Commercial locations: enclosures for front-end loading containers.

A. Enclosures shall be designed with at least fifty percent (50%) of space designated for recycling. This shall be achieved with two (2) bins, one (1) for recycling and one (1) for trash.

B. The containers shall be located within an enclosed masonry area consistent with the architecture of the project with a surrounding wall at least five feet (5'0") high and not

higher than eight feet (8'0"). All enclosures shall be designed consistent with the following:

1. Enclosures shall be built of non-combustible materials (wood is not permitted);
2. Materials/finishes shall relate to, and be of same quality as, materials used on the building;
3. Landscaping and screening shall be included to help visually buffer loading areas and enclosures; and
4. A pedestrian access, separate from the primary service access, is recommended.

C. Enclosures shall be located twenty-five feet (25'0") from any public street, fifteen feet (15'0") from the edge of pavement of a private street and, in commercial areas, twenty-five feet (25'0") from any residential zoned property line.

D. Dimensions will vary based on projected usage but shall be consistent with height, width and length dimensions for standard equipment listed in the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling* available from IW. If multiple containers go in one enclosure, a minimum thirty inch (30") separation shall be provided between containers.

E. Gates should be two (2") inches off the ground and hung on the outside so that, when open, gates are out of the bin's way. Gates shall be able to open more than ninety (90°) degrees and shall be equipped to prevent accidental swinging, which can result in injury to persons or equipment.

F. Hardware shall be of sufficient strength to accommodate repetitive swinging, and so that individuals with gloves should be able to open them.

G. Lid ears and bin pockets will rub enclosure walls. Bin may also roll against the back of the enclosure during service. Wood or metal bumpers or interior curbs shall be provided to extend enclosure life. Bolts or screws shall be inset on bumpers to avoid injury to collector or user.

H. Container shall be on a flat, level surface in the enclosure and in position for the driver to dump the container. Asphalt or dirt floor in the enclosure may not hold up under the heavy weight of a loaded bin. Concrete is required.

30.90.060 Pads and access areas.

A. Trash and recycling enclosures shall be sited to ensure that the maximum roll-out by collector does not exceed twenty-five (25'0") feet from enclosure to truck.

- B. Roll-out area shall be level and free of dips and bumps.
- C. Front-end loading trucks may weigh up to thirty (30) tons when loaded. All access surfaces shall be engineered accordingly to avoid future pavement damage. Concrete surfacing is required in all access and service areas.
- D. Trash and recycling enclosures shall be sited to ensure that overhead obstructions do not impede the hauler from gaining access to the site.
- E. Stormdrain grills shall not be placed in the driving path of the truck.
- F. Trash and recycling enclosures shall be sited with a turnaround or separate exit that allows the truck to move forward rather than backward.
- G. Trash and recycling enclosures shall be sited to accommodate parked cars and/or delivery trucks, and to consider similar accessibility issues.

30.90.070 Container dimensions.

- A. Trash and recycling containers shall be consistent with the dimensions listed in the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling*. Height is measured with the lid closed. Most enclosures are built only to a height of about eight to ten (8-10") inches higher than the dumpster, since the lid shall remain closed at all times except when the container is being loaded or unloaded. When lid is raised, the full height from the ground to the top of the lid may extend to one hundred forty (140") inches.
- B. Twenty-five (25'0") foot clearance of overhead obstruction shall be required where the vehicle will lift and empty the container.
- C. All projects shall provide clearance for front-end loading vehicles, as defined in the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling*.

30.90.080 Roll-off containers (debris boxes).

- A. Enclosures are not required for roll-off containers (debris boxes) so long as the boxes cannot be viewed by the general public and cannot be seen from public streets. This type of container is most frequently used at construction sites, but it also is designed for very high volume users. Container placement:
 - 1. Roll-off containers may be placed directly behind a building where space is available at a loading dock to allow loading from above.

2. Container should be on a level surface. If placed on an incline, roll-away protection is required. Integrated Waste staff will provide an on-site inspection before the placement is final.
3. Loading docks shall be equipped with bumper pads or eight (8") inch high curbs to avoid undue dock damage from heavy containers.
4. Roll-off containers may be placed at a residence or business by an authorized commercial hauler for a maximum of seven (7) days without a building permit. When there is a building permit, the roll-off container shall be serviced, at a minimum, every fourteen (14) days.

B. All projects shall provide clearance for roll-off containers and vehicles, as defined in the *Space Allocation and Enclosure Design Guidelines for Trash and Recycling*.

30.90.090 Compacting units.

Enclosures are not required for compacters unless the compacters are viewed by the general public. Compactors vary in size, and the manufacturer should provide capacity and dimensions. Contact the hauler in the planning stages and before installing compacting units.

Section 5: No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7: Savings Clause

The provisions of this Chapter shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when

any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 8: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the Office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: **10-2010**
INTRODUCED: May 12, 2010
ADOPTED:
EFFECTIVE:

SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, INTERIM CITY CLERK

SUSAN COCHRAN, CITY ATTORNEY

Date signed: _____