

RESOLUTION NO. 2021-301

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING RESOLUTION NO. 2019-260 AND ADOPTING UPDATED
COMMERCIAL HAULER FEES AND ASSOCIATED POLICIES PURSUANT TO ELK
GROVE MUNICIPAL CODE TITLE 30 SOLID WASTE MANAGEMENT**

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

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

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

WHEREAS, the City Council wishes to repeal Resolution No. 2019-260, whereby the commercial hauler fees and policies were set, and replace said resolution with the fees and policies set forth herein; and

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

WHEREAS, Title 30 also authorizes the City Council to establish, by resolution, an alternative method for calculating gross revenue for clean-up companies; this Resolution establishes the method for determining the estimated gross revenue (as authorized by EGMC Section 30.50.110); and

WHEREAS, Title 30 also authorizes the City Council to establish, by resolution, a fee for late payment of commercial hauler fees and/or late submittal of required monthly, quarterly, or annual reports from authorized haulers; this Resolution establishes the late payment and delinquent report fees payable to the City by authorized haulers (as authorized by EGMC Section 30.50.160 and 30.50.190 (G)); and

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

WHEREAS, Title 30 authorizes the City Council to establish, by resolution, the processing fee to accompany the Construction & Demolition (C&D) Waste Plan for a Covered Project and all demolition projects; this Resolution establishes the processing fee (as authorized by EGMC Section 30.70.050(C)).

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elk Grove finds that the adoption of this Resolution is exempt from the California Environmental Quality Act (CEQA) based upon the following finding and evidence:

Finding: The adoption of this Resolution is exempt from CEQA review and does not constitute the approval of a project under CEQA. (Pub. Res. Code §§ 21065, 21080(b)(8); CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15273; 15352; 15378(a).)

Evidence: This Resolution updating the Commercial Solid Waste Hauler Fees and associated policies will help defray the operating expenses of the City's commercial hauler regulations and program including, without limitation, general administration costs such as salaries, benefits, and department supplies attributable to administering the commercial hauler regulations, oversight and enforcement, implementation of solid waste programs, and operational costs for the Special Waste Collection Center. Therefore, adoption of the fee resolution is exempt from CEQA. (Pub. Res. Code § 21080(b)(8), CEQA Guidelines § 15273.) Additionally adoption of this Resolution will not have a physical effect on the environment. Therefore, adoption of this Resolution is exempt from CEQA under the common sense exemption, and adoption of this Resolution also does not constitute the approval of a project under CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15352; 15378(a).)

AND BE IT FURTHER RESOLVED by the City Council of the City of Elk Grove as follows:

- 1) Resolution No. 2019-260 is hereby repealed in its entirety as of the date of this Resolution.
- 2) Commercial Hauler Fees, associated policies, and calculation methodology are hereby established as set forth herein. The City shall charge and collect monthly commercial hauler fees from each authorized hauler in an amount equal to a percentage of gross receipts as noted in the following table, at the time, in the form and manner, and as otherwise provided in EGMC Section 30.50.100:

Percentage of Commercial/Industrial/Multi-family Solid Waste Diverted from Landfills	Commercial Hauler Fee as a Percentage of Gross Receipts
30% or greater	10%
25% or greater but less than 30%	12%
20% or greater but less than 25%	14%
15% or greater but less than 20%	16%
10% or greater but less than 15%	18%
Less than 10%	20%

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

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

Sample Calculations of the Commercial Hauler Fee:

	Hauler #1	Hauler #2	Hauler #3	Hauler #4
Hauler's Diversion Rate for Q1	31%	22%	17%	8%
Applicable Fee Rate for Q3	10%	14%	16%	20%
Total Gross Receipts Received from Customer #1	\$500	\$500	\$500	\$500
Total Commercial Hauler Fee Owed to City	\$50	\$70	\$80	\$100
Maximum Fee Amount That Can Be Itemized on Customer Bill	\$50	\$50	\$50	\$50
Net Revenue Retained by Hauler	\$450	\$430	\$420	\$400

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

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

- a) *Diversion Tonnage.* The amount of diverted solid waste (diversion tonnage) is equal to:
 - i. the tons of solid waste that an authorized hauler collects from commercial, industrial, and multi-family generators in the City and

delivers to a materials recovery facility, or a site or other facility that does not report disposed tonnage to the California Department of Resources Recycling and Recovery (CalRecycle) or other State of California board, department or agency, *minus*

- ii. the tons of residue remaining after processing that commercial/industrial/multi-family solid waste that a facility allocates to the City and reports to CalRecycle in compliance with disposal reporting requirements in accordance with applicable law.
- b) *Collection Tonnage*. The amount of solid waste that an authorized hauler collects from commercial, industrial, and multi-family generators in the City (collection tonnage) is equal to the aggregate amount of that commercial/industrial/multi-family solid waste that the authorized hauler delivered to solid waste management facilities and that those solid waste management facilities report to CalRecycle as disposed in a landfill in compliance with disposal reporting requirements under applicable law.
- c) *Corroboration of Tonnages*. The authorized haulers will calculate, and the City may corroborate, tonnages by written documentation acceptable to the City, including without limitation: weight tickets; invoices; bills of lading; receipts from recyclables transporters, shippers, brokers, remanufacturers and purchasers or other users; and disposal reports submitted to CalRecycle or other State of California boards, departments or agencies. All documentation is subject to an allocation adjustment in accordance with Section d of this Resolution if an authorized hauler commingles in a single waste collection vehicle or container, tonnage collected in the City with tonnage collected outside the City. Authorized haulers will provide the City with copies of documentation within seven (7) days of the City's direction to do so.
- d) *Allocation of Commingled Materials*. If an authorized hauler commingles in a single waste collection vehicle the tonnage that the authorized hauler collected in the City with tonnage that the authorized hauler collected outside the City, then the authorized hauler will determine collection tonnage as follows:

The total weight of a collection vehicle's load in tons will be divided by:

- 1) the aggregate cubic yard capacity (commercial route capacity) of containers that an authorized hauler collects with that vehicle in the City, plus
- 2) the aggregate cubic yard capacity (other route capacity) of containers that the authorized hauler collects with that vehicle outside the City based on its written records of customers' service, including customer service subscription orders and invoices.

The conversion ratio for carts that have capacities measured in gallons rather than cubic yards is two hundred (200) gallons to one (1) cubic yard. The resulting average tons/cubic yard will be multiplied by the commercial route capacity in the City.

Upon direction by the City, the authorized hauler will promptly supply the City with documentation supporting the allocation calculations, including route collection maps and sheets, and totals of containers by size and capacity. If the City disagrees with the allocation it may correct the calculations. The authorized hauler will be bound by those corrections and be required to report any changes to CalRecycle or other agencies as appropriate.

If an authorized hauler did not collect or divert any waste during a given reporting period, the Commercial Hauler Fee as a Percentage of Gross Receipts from the most recently completed quarter in which the Commercial Hauler Fee applied will be assigned to the next quarter in which the authorized hauler generates revenue for which fees are due.

At its option, an authorized hauler may base any or all of its quarterly calculation of Diversion Tonnage and Collection Tonnage on either the actual data for that quarter, or an average of the data for the preceding twelve (12) month period ending on the last day of that quarter. For example, the calculation can be based on: a) the quarter commencing January 1, and ending March 31, or b) the preceding twelve (12) month period commencing April 1 of the prior year and ending March 31. In conjunction with submitting its calculation to the City, an authorized hauler must indicate whether a quarter or twelve (12) month period served as the basis of its calculation. If the authorized hauler opts to use a twelve (12) month period for any given reporting period, the actual Diversion Tonnage and Collection Tonnage shall be reported in addition to the data that has been average for the twelve (12) month period.

The quarterly calculation of diverted tonnage will be used to determine the quarterly diversion rate, which then determines the commercial hauler fee for a future three-month period as detailed on the Rate Determination Schedule below:

Rate Determination Schedule

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

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

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

- 3) Collection of the Fee. Authorized haulers shall pay the commercial hauler fee as defined in EGMC Section 30.50.140.

AND BE IT FURTHER RESOLVED by the City Council of the City of Elk Grove under EGMC Section 30.50.110 (Commercial Hauler fees for clean-up companies):

- 1) Gross Revenue Calculation for Clean-Up Companies. For those companies whose primary business is the provision of clean-up services, including construction clean-up services, the gross commercial solid waste collection revenue subject to the commercial hauler fees will be calculated using One Hundred Five dollars (\$105.00) per ton (two thousand pounds) for commercial solid waste that is collected for disposal at the origination site in Elk Grove.
- 2) Collection of the Fee. Clean-up companies shall pay the commercial refuse hauler fee as defined in EGMC Section 30.50.140.

AND BE IT FURTHER RESOLVED by the City Council of the City of Elk Grove under EGMC Section 30.50.160 (Late payment fees):

- 1) Fees for Late Payments. If an authorized hauler does not fully and timely pay its commercial hauler fee in accordance with EGMC Section 30.50.140, then the hauler must pay a late payment penalty as follows:

Fee Type	Amount	EGMC Reference
Late Payment	10% of commercial hauler fee due	30.50.160(A) 30.50.160(B)
Outstanding Balance Fee	1.5% compounded monthly, including any late fees due	30.50.160(A)
Interest on Outstanding Balance from an Audit	1.5% compounded monthly for each month in which the fees were not paid	30.50.160(B)

- 2) Collection of the Fee. Authorized haulers must pay any late fees or outstanding balance fees associated with commercial hauler fees defined in EGMC Section 30.50.140.

AND BE IT FURTHER RESOLVED by the City Council of the City of Elk Grove under EGMC Section 30.50.190(G) [Reporting]:

- 1) Delinquent Report Charge. If any of an authorized hauler's required reports pursuant to EGMC Section 30.50.190 are not filed by the due date specified for each report, the report shall be deemed delinquent and the authorized hauler shall pay to the City a delinquent report charge as follows:

Fee Type	Amount	EGMC Reference
Delinquent/Inaccurate Report Charge	\$50 per business day (Mon-Fri) for the first 15 days the report is late following the due date	30.50.190(G)
	\$100 per business day (Mon-Fri) for the 16 th and each subsequent day the report is late following the due date	30.50.190(G)

- 2) Collection of the Fee. Authorized haulers shall pay delinquent report charges in the same manner as commercial hauler fees defined in EGMC Section 30.50.140(B).

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

- 1) Covered Project. Pursuant to EGMC Section 30.70.020, a covered project shall be defined as all additions, remodels or new construction projects within the City and all demolition projects with a total cost equal to, or in excess of, the established threshold, initially hereby set at project valuation of Seventy-Five Thousand dollars (\$75,000.00), and all demolition projects regardless of value.
- 2) C&D Processing Fee. The City will impose a construction and demolition (C&D) processing fee to fund the C&D recycling program as follows:

Project Valuation	Fee Amount	EGMC Reference
\$250,000 or less	\$0	30.70.020
\$250,001 or more	0.04% of project valuation	30.70.020
	\$100.00 minimum fee	
	\$800.00 maximum fee	
Demolition Projects (any value)	0.04% of project valuation	30.70.020
	\$40.00 minimum fee	
	no maximum fee	

- 3) Collection of the Fee. The C&D processing fee will be assessed at the time of application for a building permit and will be used to fund the administrative costs of the Building Safety and Inspection and Recycling & Waste Divisions to administer the C&D debris recycling program.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of October 2021




BOBBIE SINGH-ALLEN, MAYOR of the CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS, CITY ATTORNEY

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2021-301

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

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on October 13, 2021 by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Nguyen, Hume, Spease, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*


Jason Lindgren, City Clerk
City of Elk Grove, California