

ORDINANCE NO. 13-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 4.10 RELATING TO SPECIAL BUSINESS LICENSES AND EMPLOYEE PERMITS SECTION 4.10.005.A.9 RELATED TO SPECIAL BUSINESS LICENSES FOR AUTO TOWING COMPANIES

WHEREAS, the City of Elk Grove requires a business license for those choosing to conduct business within city limits; and

WHEREAS, City Council enacted Elk Grove Municipal Code 4.10. to regulate the issuance of special business licenses to ensure the health and safety of the City's residents; and

WHEREAS, Elk Grove Municipal Code 4.10.005.A.9 specifically regulates business licenses for auto towing companies operating within the City; and

WHEREAS, the State of California regulates tow truck businesses under California Vehicle Code 21100(g); and

WHEREAS, Elk Grove Municipal Code 4.10.005.A.9 is in conflict with the California Vehicle Code 21100(g) because it does not differentiate its regulatory authority of tow truck businesses whose location is either inside or outside of the City; and

WHEREAS, any local jurisdiction whose legislation is in conflict with state law is considered void; and

WHEREAS, it is necessary to correct the apparent conflict between Elk Grove Municipal Code and state law.

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

Section 1: Purpose

The purpose of this ordinance is to amend Elk Grove Municipal Code Chapter 4.10.005.A.9 to provide clarity of as to which tow truck businesses are required to have a special business license in the City of Elk Grove.

Section 2: Elk Grove Municipal Code Chapter 4.10.005.A.9 "License Required" shall be amended as follows:

A. No person shall, unless under and by authority of a valid unexpired and unrevoked special business license, conduct or operate within the City, whether singularly or in connection with another type of enterprise, the following:

9. Auto towing, consisting of persons who engage in the business of towing automobiles which require repair, are abandoned on public rights-of-way, or are parked illegally; and whose principal place of business or employment is located within the City.

Section 3: 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 or 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 4: 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 5: Savings Clause

The provisions of this ordinance 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 effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in 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 6: 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: 13-2017
INTRODUCED: April 26, 2017
ADOPTED: May 10, 2017
EFFECTIVE: June 9, 2017



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: May 18, 2017

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 13-2017**

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 ordinance, published and posted in compliance with State law, was duly introduced on April 26, 2017 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on May 10, 2017 by the following vote:


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

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*

A summary of the ordinance was published pursuant to GC 36933(c) (1).


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