

**ORDINANCE NO. 32-2017**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AMENDING ELK GROVE MUNICIPAL CODE 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 residents under the provisions of the California Integrated Waste Management Act (the "Act"), Public Resources Code Section 4000 et seq.; and

**WHEREAS**, through enactment of the 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 responsible for administering programs related to solid waste generated in the City; and

**WHEREAS**, it is prudent for the City to set forth the terms and conditions of its solid waste management in the Elk Grove Municipal Code (EGMC) through the adoption of an ordinance duly introduced and codified.

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

Section 1: Purpose and Authority

The purpose of this Ordinance is to amend the Elk Grove Municipal Code Title 30 regarding solid waste management. Under California Constitution Article XI, Section 7, the City of Elk Grove may enact ordinances to preserve and protect public safety, health and welfare.

Section 2: Action – Amendments to EGMC Section 30.10.010 Definitions.

Identified sections of EGMC Section 30.10.010 shall be amended to read as follows:

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C.15. "Covered generator" means all businesses, nonresidential properties, multifamily properties, and single-family residential properties that are managed by an association or other organization that generates four or more (4+ yd<sup>3</sup>) cubic yards of waste per week of commercial solid waste and/or any multifamily residential dwelling property of five units or more regardless of waste collection service level. 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.

C.16 "Covered project" means any addition, remodel, new construction, and/or demolition projects. "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.

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*Note: Delete definition I(1) in its entirety and renumber subsequent paragraphs under subsection I.*

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M.3 "Multifamily property" means any multifamily dwelling building or group of buildings that contain five (5) or more individual dwelling units located on a single tax lot regardless of waste collection service level. Multifamily complexes include, but are not limited to, apartment complexes, mobile home parks, senior housing/care facilities, and condominium complexes.

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R.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, ~~nonrecyclable~~ glass, aluminum (including redemption aluminum), and No. 1 – 7 plastics.

### Section 3: Action – Amendments to EGMC Chapter 30.20:

Identified sections of EGMC Chapter 30.20 shall be amended to read as follows:

#### 30.20.010 – Mandatory Service

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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 (3' 0") feet between each cart and three (3' 0") feet away from any car or stationary object, residents of the complex may be required, as determined by the City, to place carts in a community collection area so that the authorized franchisee can properly service the carts. Additionally, residents of the complex may not be issued more than one cart for green waste or recycling and will still be required to pay the normal residential service rates as set by resolution.

C. All charges for solid waste collection and transportation services for residential refuse collection service shall be billed to the owner of record of any such parcel as shown upon the County of Sacramento Assessor's roll as of the date that ownership of the property changes or refuse service is commenced for the parcel, to the successor in interest to such person, such person's designee, or to any person requesting that such charges be billed to the individual, but in all cases the property owner shall be liable for the charges.

D. The City's Development Services Department may, in connection with refuse collection mandated by this Section, adopt and issue decisions which prescribe the type, capacity and number of containers, and may designate the location of refuse collection containers to be set out for collection for an account.

### 30.20.020 – Exemptions from Mandatory Service

A. Garbage Collection Exemptions. A customer whose account is current and in good standing may apply for a garbage collection exemption outlined in this section by submitting a completed application for garbage exemption form provided by City. Within thirty (30) days of receipt of a completed application, the Integrated Waste Division will review and approve or deny the application, according to the terms of the Garbage Collection Exemption policy. The property owner of record will be notified as to whether the request has been granted or denied. 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. 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 or adjacent parcels but singularly owned 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 primary property must subscribe to garbage collection service level.
- b. The secondary structure must be detached from the primary structure, and must have a permanent foundation.

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 using a self-haul garbage exemption shall dispose of the garbage on a weekly basis at a permitted transfer station or solid waste facility.
- b. 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.
- c. Only the owner or occupant, or the employees of such owner or occupant, shall make such removal.
- d. 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.

e. An approved exemption only applies to residential solid waste charges. It does not exempt a property from the Storm Drain Fee or the Household Hazardous Waste Availability Fee.

f. No waste shall be permitted to leak, blow, litter or fall from any vehicle engaged in such removal.

g. All removal shall be done safely and quietly with due regard to the property of others.

h. 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.

i. Any person using the self-haul exemption shall separate green waste, garbage, and recyclables, and shall take such green waste to a permitted composting facility, transfer station or landfill permitted to accept the waste type.

j. 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.

k. Any person using the self-haul exemption shall comply with insurance requirements as specified from time to time by the City.

l. Any person using the self-haul exemption engaged in solid waste removal shall procure and retain a receipt that documents the proper disposal of their waste on a weekly basis at a permitted solid waste facility and shall provide these receipts to the City Manager upon request. Failure to show proof of solid waste disposal shall constitute a public health and safety risk sufficient to permit the City to administratively require such person to become a customer.

m. 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. Bin Service Exemption: A dumpster is located at a parcel located within an area zoned by the City as Agricultural Residential (AgRes) and is being removed by a City approved commercial trash hauler. Any person authorized for a Bin Service Exemption must procure and retain a receipt from the City authorized hauler that documents the proper disposal of their waste and shall provide these receipts to the City Manager upon request.

b. Such other exemptions as may be granted by the City Council by resolution.

### 30.20.030 Container placement and maintenance.

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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 storage of carts on the side of the residence immediately adjacent to the backyard fence shall satisfy the requirements of this section. No person shall store carts or other containers on public property, including rights-of-way.

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Section 4: Action – Amendments to Chapter 30.50:

Identified sections of EGMC Chapter 30.50 shall be amended to read as follows:

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30.50.030 Commercial hauler qualifications.

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*Note: Delete subsection 3.50.030(B) in its entirety and relabel subsequent subsections under Chapter 30.50.030.*

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30.50.070 Vehicle inspections.

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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). 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.

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30.50.130 Customer invoices

Commercial haulers may not separately itemize commercial refuse hauler fees in an amount greater than that set by resolution of the City Council on their bills, invoices or other documentation that the commercial haulers distribute to their customers or to the general public.

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30.50.200 Audit.

The City, or its contracted auditor, may audit the books, accounts and records of commercial haulers and commercial haulers shall provide the City, or its contracted auditor, with copies requested thereof within two (2) weeks of the City's or auditor's request or access thereto at locations within the County. The City or its contracted auditor 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.

#### 30.50.210 Insurance.

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C. Each commercial hauler shall serve the City with notice, in writing by certified mail, within two (2) days of any notices received from any insurance carriers providing insurance coverage, as required, that relate to the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage, proposed or otherwise.

#### Section 5: Action – Amendments to Chapter 30.60:

Identified sections of EGMC Chapter 30.60 shall be amended to read as follows:

#### 30.60.010 Purpose and declaration.

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B. It is further the purpose of this Chapter to provide a mechanism to require the implementation of recycling programs for businesses, nonresidential properties, multifamily 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 seventy five percent (75 %) waste diversion requirements set forth in PRC Section 41780.01, and as may be amended.

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#### 30.60.030 Requirements for covered generators.

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A.1 Source-separate designated recyclable materials pursuant to EGMC Section 30.60.050 from solid waste;

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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 or designee at the principal location of the covered generator during normal business hours.

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#### 30.60.090 Requirements for recycling plans.

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D. Registered or franchised commercial haulers shall complete and have on file with the City recycling plans for one hundred percent (100%) of their covered generators.

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#### 30.60.100 Requirements for authorized recyclers.

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I. Authorized recyclers, upon request, shall provide the City 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 or designee at the authorized recycler's place of business during normal business hours.

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

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#### 30.60.130 Reporting

A. Reporting by registered or franchised commercial haulers shall occur on a quarterly basis or as requested by the City Manager or designee. Registered or franchised commercial haulers shall provide quarterly reports on the first (1<sup>st</sup>) day of the second (2<sup>nd</sup>) month following the close of each quarter. 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. 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.

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

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

1. The recyclable materials tonnage collected and removed within the City region; and

2. The location of the recycling facility(s) to which the recyclable materials were taken during the year.

E. 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.

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#### 30.60.140 Exemptions from recycling standards.

A. Notwithstanding any other provision herein, a business, nonresidential property, multifamily 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 generates less than four (4 yd<sup>3</sup>) cubic yards of solid waste per week. Notwithstanding any other provision herein, a multifamily property of less than five units shall be exempt from the requirements of this chapter.

#### Section 6: Action – Amendments to Chapter 30.70:

Identified sections of EGMC Chapter 30.70 shall be amended to read as follows:

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#### 30.70.020 Covered project.

All additions, remodels or new construction projects within the City and all demolition projects, are defined as a Covered Project, and shall be subject to this chapter. Additions, remodels, and newly constructed buildings with an established cost threshold (set by resolution of the City Council) are subject to additional report and fee obligations, which reports and/or fee obligations shall be set by resolution of the City Council.

#### 30.70.030 Requirements of C&D Generators.

A. Each C&D generator 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 required diversion of recyclable material.

B. Each C&D generator 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 shall recycle one hundred percent of all excavated soil and land clearing debris.

E. Each C&D generator shall recycle or divert no less than sixty-five percent (65%) of the material collected at the construction site, not including excavated soil and land clearing debris.

F. Each C&D generator 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.

G. 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.

H. Each C&D Generator for additions of one thousand (1,000 ft<sup>2</sup>) square feet or greater and/or building alterations with a permit valuations of Two Hundred Thousand and no/100<sup>ths</sup> (\$200,000.00) Dollars or above shall provide verification that Universal Waste items such as fluorescent lamps and ballasts and mercury-containing thermostats as well as other California prohibited Universal Waste materials are disposed of properly and are diverted from landfills.

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30.70.050 Waste Management Plan.

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

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#### 30.70.080 Inspection and audit authority.

C. Where the City Manager determines that an audit is necessary, the permittee may be responsible for reimbursement of audit costs, including any 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.

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#### 30.70.100 Probation

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C1. 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 for a covered project. A recycling performance deposit will be calculated as one (1%) percent of the stated project valuation but will not exceed Ten Thousand and no/100<sup>ths</sup> (\$10,000.00) Dollars. 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.

#### Section 7: Action – Amendments to Chapter 30.90:

Identified sections of EGMC Chapter 30.90 shall be amended to read as follows:

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#### 30.90.010 Purpose.

A. The City-established space allocation and enclosure design guidelines for trash and recycling, as may be amended by the City Manager or designee, which is a document that provides recycling and waste collection requirements for all developments Citywide. 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 multifamily developments of five (5) units or more, and improvements that add thirty (30%) percent or more to the existing floor area, shall include adequate, accessible, and convenient areas for collecting and loading recyclable material.

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#### 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 sixty five percent (65%) of the waste generated by all residences and businesses in the City.

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#### 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. Sufficient space shall be provided to meet all trash and recycling requirements of this Chapter including space as needed for refuse, recyclables, and organic waste.

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#### 30.90.050 Commercial locations – Enclosures for front-end loading containers.

- A. Enclosures shall be designed with greater than fifty (50%) percent of space designated for recycling. This shall be achieved with three (3) bins, one (1) for recycling, one (1) for organics and one (1) for trash.

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#### Section 8: 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 9: 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 10: 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.

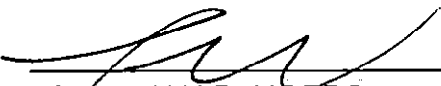
Section 11: Effective Date and Publication

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:** 32-2017  
**INTRODUCED:** December 13, 2017  
**ADOPTED:** January 10, 2018  
**EFFECTIVE:** February 9, 2018

  
DARREN SUEN, VICE MAYOR of the  
CITY OF ELK GROVE

ATTEST:  
  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:  
  
JONATHAN P. HOBBS,  
CITY ATTORNEY

Date Signed: January 16, 2018


**CERTIFICATION  
ELK GROVE CITY COUNCIL ORDINANCE NO. 32-2017**

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 December 13, 2017 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 10, 2018 by the following vote:*

**AYES :**                   **COUNCILMEMBERS:**    **Suen, Detrick, Hume, Nguyen**  
**NOES:**                   **COUNCILMEMBERS:**    **None**  
**ABSTAIN:**               **COUNCILMEMBERS:**    **None**  
**ABSENT:**                **COUNCILMEMBERS:**    **Ly**

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

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