

ORDINANCE NO. 5-2012

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE SECTION 30.50.150
REGARDING SOLID WASTE MANAGEMENT PAYMENT SECURITY
REQUIREMENTS FOR NON-RESIDENTIAL HAULERS**

WHEREAS, the City of Elk Grove (the "City") adopted and maintains the Elk Grove Municipal Code to establish standards for the management of solid waste and nonresidential haulers; and

WHEREAS, the Elk Grove Municipal Code establishes standards for the collection of fees from nonresidential commercial haulers operating within the City; and

WHEREAS, the Elk Grove Municipal Code standards are intended to maintain fair and effective methods of revenue recovery; and

WHEREAS, sections of the Elk Grove Municipal Code establish a process related to the setting up of a security deposit for all nonresidential commercial haulers; and

WHEREAS, the City of Elk Grove repeals language in Title 30, adopted on May 26, 2010, that required security deposits for all nonresidential commercial haulers and replaces that language with language that requires security deposits only on an as-needed basis.

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

Section 1: Purpose and Authority.

The purpose of this Ordinance is to amend Elk Grove Municipal Code (EGMC) Section 30.50.150 by removing the prior language and replacing it in full in order to make the requirements of a security deposit optional.

Section 2: Revision to EGMC Section 30.50.150 *Payment Security*.

EGMC Section 30.50.150 is hereby amended to read as follows:

30.50.150 Payment security.

A. For existing authorized commercial haulers, payment security to secure payment of the commercial refuse hauler fees to the City shall be required upon occurrence of any of the following within the preceeding twelve (12) month period:

1. Delinquency of payment to the City of commercial refuse hauler fees, fees for late payments, penalties, and/or interest;
2. Delinquency of payment to the City of costs associated with commercial hauler audits;

3. Delinquency of any other payments owed to the City related to commercial hauler authorization.

B. For new commercial haulers with no prior history with the City, the commercial hauler shall not be required to provide a payment security to the City if the commercial hauler applicant provides the City with a credit reference from another city or public entity demonstrating no instances of late or non-payment for the twelve (12) consecutive months preceeding the commercial hauler's application to the City.

C. The payment security must be approved by the City Manager or his/her designee and shall be in the form of a cash deposit, a certificate of deposit or such other form as may be approved by the City Manager, in an amount equal to the greater of the following amounts:

1. One-half (0.5) of the amount of commercial refuse hauler fees received from the commercial hauler in the prior calendar year; or
2. The total amount of commercial refuse hauler fees received during the preceding one hundred eighty (180) days.
3. Should a payment security be required of a newly-authorized commercial hauler, the amount of payment security shall be ten (10%) percent of half (0.5) of the projected gross revenue for the first twelve (12) months following authorization, or another calculation as may be approved by the City Manager.

D. Any payment security collected by the City shall be returned to the commercial hauler if the commercial hauler has paid all amounts owed to the City, including, but not limited to, commercial refuse hauler fees, commercial hauler audit fees, commercial hauler authorization fees, and late payment fees and interest, and meets either of the following criteria:

1. The commercial hauler ceases doing business in the City and provides documentary evidence to the City to that effect, or
2. The commercial hauler is not required to provide a payment security under section 30.50.150.A.

Section 3: 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 4: 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 5: 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: 5-2012
INTRODUCED: March 14, 2012
ADOPTED: March 28, 2012
EFFECTIVE: April 27, 2012



JAMES COOPER, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:



JASON LINDGREN, CITY CLERK



JONATHAN HOBBS,
INTERIM CITY ATTORNEY

Date signed: April 2, 2012

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 5-2012**

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 March 14, 2012 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on March 28, 2012 by the following vote:


AYES : **COUNCILMEMBERS:** *Cooper, Hume, Davis, Detrick, Scherman*

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**