

ORDINANCE NO. 16-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 3.70 “UTILITY SERVICES BILLING”

WHEREAS, on April 12, 2017, the Third Amendment to the Franchise Agreement with Allied Waste Services of North America, LLC (d.b.a. Republic Services) (hereinafter “Allied Waste”) was approved and will expire on June 30, 2018; and

WHEREAS, on April 12, 2017, a new franchise agreement with Allied Waste was approved by resolution to commence on July 1, 2018; and

WHEREAS, per the amended and new franchise agreements, Allied Waste will assume the utility billing service function on behalf of the City starting on July 1, 2017; and

WHEREAS, with the transition of Utility Services Billing to Allied Waste, certain sections of EGMC Chapter 3.70 must be updated by amendment.

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 3.70 to incorporate changes to the City’s procedure for billing and collecting amounts for services provided by the City through its Franchisee Allied Waste.

Section 2: Amended Chapter 3.70 Utility Billing Services

Chapter 3.70

UTILITY BILLING SERVICES

Sections:

- 3.70.010 Level of service charges.
- 3.70.020 Service account creation.
- 3.70.030 Billing procedures.
- 3.70.040 Due dates and payment of bills.
- 3.70.050 Late charges and overdue interest.
- 3.70.060 Nonpayment of charges.
- 3.70.070 Household hazardous waste availability fee.
- 3.70.080 Service interruptions.
- 3.70.090 Hardship assistance programs.
- 3.70.100 Billing Procedures Plan.

3.70.010 Level of service charges.

The City Council may establish the amount of utility service charges by resolution.

3.70.020 Service account creation.

Service accounts will be created and billing activities will commence upon the occurrence of the following:

A. Storm Drain. All parcels as defined in EGMC Chapter 15.10 must have a billing account created. Pursuant to Section 5471 of the California Health and Safety Code, the City may elect to have the storm drain utility charges collected with the property tax rolls.

B. Solid Waste. Except as otherwise expressly provided by this chapter or EGMC Title 30, the owner, tenant, and/or occupant of every improved parcel (parcel with one (1) or more nonresidential and/or residential buildings approved for occupancy) shall be automatically subscribed to a refuse collection service provided by the City and/or a residential hauler operating under a franchise agreement issued by the City pursuant to Elk Grove Municipal Code Chapter 30.30 ("Residential Hauler").

3.70.030 Billing procedures.

A. Forms of Bills.

1. The City and/or Residential Hauler may bill and collect service charges together with rates, fees, tolls and charges of any other City-administered utility, as authorized by the City Manager.

2. The storm drainage utility billing shall be based on the use of the parcel as determined in EGMC Title 15. For each parcel of property there shall be only one (1) unit for purposes of billing for storm drainage services. In no case shall a parcel be divided into smaller units for billing purposes. The initial bill for storm drainage utility service shall be based on current parcel numbers, square footage and use codes on record in the County Assessor's Office, unless the City Manager determines that the actual use of the parcel is different than the use reflected in the use codes, in which case the billing shall be based on the actual use of the parcel.

B. Billing Adjustments. The City Manager and/or Residential Hauler may adjust disputed service charges on any bill in the manner that he/she deems appropriate. The City Manager and/or Residential Hauler may issue an adjustment to a utility account up to one (1) year from the date the dispute is first (1st) presented to the City or Residential Hauler provided the dispute is brought to the City or Residential Hauler's attention within one (1) year from the date of the disputed charge. Any adjustments shall be made in accordance with the Billing Procedures Plan pursuant to EGMC 3.70.100.

If a customer has received service but has not been billed or has not been billed correctly for any reason, the City Manager or Residential Hauler may issue an adjustment to that customer's utility account up to six (6) months from the date the billing issue is discovered.

3.70.040 Due dates and payment of bills.

The City and/or Residential Hauler may bill the service charges monthly, bimonthly, quarterly or annually, in advance or arrears, as determined by the City Manager. The service charges are payable on presentation of the bill and are due on the date shown on the face of the billing statement and are delinquent if payment is not received by the due date. The bill must clearly state the due date.

3.70.050 Late charges and overdue interest.

If any service charge becomes delinquent, a late charge of five and one quarter (5.25%) percent of the amount that has become delinquent will accrue thereon. The delinquent amount and late charge shall be placed on the annual tax bill if delinquent for more than one hundred twenty (120) days, in accordance with Section 3.70.060 of this chapter. If the delinquent amount and a late charge are placed on the annual tax bill, the total delinquent amount plus all penalties shall incur an additional ten (10%) percent penalty.

3.70.060 Nonpayment of charges.

A. Storm Drain Lien.

1. The City and/or Residential Hauler shall notify the assessee shown on the latest equalized assessment roll whenever delinquent and unpaid storm drainage service fees, which would become a lien on the parcel pursuant to subsection (B) of this section, remain delinquent and unpaid for one hundred twenty (120) days.
2. The storm drainage service fee and any penalties levied pursuant to this chapter shall constitute a lien upon the parcel subject to the fee, as provided for in Section 5473.11 of the Health and Safety Code, if the fee remains delinquent for a period of one hundred twenty (120) days and the City and/or Residential Hauler has notified the assessee of the parcel shown on the latest equalized assessment roll of the delinquent fees and the lien provided by this section.
3. The lien provided herein shall have no force or effect until a certificate specifying the amount of the unpaid fees is recorded with the Sacramento County Clerk-Recorder.
4. Any delinquent storm drainage service fees and penalties may be collected on the tax roll in the same manner and at the same time as the City's ad valorem property taxes.

B. Solid Waste Services Lien.

1. Delinquent solid waste fees not paid by the time the next bill is prepared shall be separately stated on the next bill rendered to the customer, and such amount shall be subject to a late charge as described in this section and such statement shall constitute a notice of the delinquency to the customer.

2. Solid Waste Assessment and Lien. In addition to any other remedy allowed by law, the City, and/or Residential Hauler may collect delinquent solid waste fees or charges in the manner provided in Section 25831 of the Government Code as applied to cities in Section 38790.1 of the Government Code. This provision will not be invoked until charges are unpaid for one hundred twenty (120) days.

3.70.070 Household hazardous waste availability fee.

The City shall charge a monthly household hazardous waste (HHW) fee to all residents who are approved for a service interruption pursuant to this chapter or garbage exemption or as provided for in EGMC Title 30. The amount of this fee shall be set by the City Council by resolution.

3.70.080 Service interruptions.

The City Manager or Residential Hauler may adopt a service interruption policy for the temporary suspension of all solid waste services (trash, green waste and recycling). No suspension of storm drain service shall be permitted. The City Manager or Residential Hauler may adopt a cost recovery fee to recover the costs associated with monitoring this program and any administrative costs related to the service interruption.

3.70.090 Hardship assistance programs.

Ongoing Rate Assistance. The City Council may by resolution adopt a discounted solid waste services rate and eligibility criteria for receiving such a rate to be used by the Finance Director in implementing the rate assistance program. Continued availability of the program is subject to annual budget appropriations from the City's general fund. The program may be discontinued or modified by City Council at any time.

3.70.100 Billing Procedures Plan.

In the event that Utility Billing services are carried out by the Residential Hauler, the City and Residential Hauler shall enter into an agreement called the "Billing Procedures Plan". The Billing Procedures plan shall specify the detailed requirements related to billing services including, but not limited to, frequency of billing, applicability of late charges, service interruptions, delinquency collection process, and monthly payments and reporting.

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 our 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.

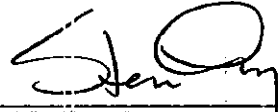
Section 5: Savings Clause.

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 affect; 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 of 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 the 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: 16-2017
INTRODUCED: June 28, 2017
ADOPTED: July 12, 2017
EFFECTIVE: August 11, 2017



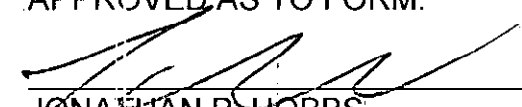
STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: July 20, 2017

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 16-2017**

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 June 28, 2017 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on July 12, 2017 by the following vote:

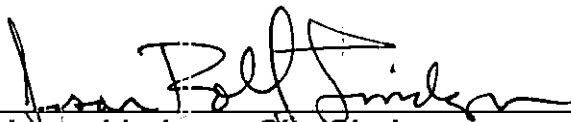
AYES : **COUNCILMEMBERS:** *Ly, Detrick, Hume, Nguyen, Suen*

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**