

ORDINANCE NO. 38-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING SECTIONS 6.20.030 AND 6.20.520 OF THE ELK GROVE MUNICIPAL CODE RELATING TO RESIDENTIAL SOLID WASTE HANDLING SERVICE CHARGES

The City Council of the City of Elk Grove does ordain as follows:

WHEREAS, prior to incorporation by the City of Elk Grove ("City") effective July 1, 2000, residents received residential solid waste handling services from the County of Sacramento (the "County"); and

WHEREAS, upon incorporation, the City adopted the County Code and began providing its own residential solid waste handling services to its citizens by hiring waste hauling companies; and

WHEREAS, to help pay for those services, the City imposed solid waste handling service charges upon the citizens who received those services; and

WHEREAS, the City has noticed an increase in the number of citizens who fail to pay at all or in a timely manner; and

WHEREAS, the City has traditionally absorbed much of the cost of delinquent accounts and/or has suspended service when citizens have failed to pay solid waste handling fees, forcing the citizens as a whole to absorb that expense; and

WHEREAS, the City seeks to pursue more vigorously the placement of tax liens upon those properties whose solid waste handling payments continue to be delinquent; and

WHEREAS, the City desires to reduce the City's cost of pursuing these liens by using the same lien procedure used for collection of delinquent storm drainage fees in Chapter 15.10 of the Elk Grove Municipal Code, thereby simplifying consolidated utility collection efforts for each residence and/or parcel; and

WHEREAS, the City also seeks to clarify and increase the number of solid waste service fee exemptions for which citizens may apply.

NOW, THEREFORE, the City Council of the City of Elk Grove ordains as follows:

Section 1: Recitals

The foregoing recitals are true and correct and this Council so finds and determines.

Section 2: Purpose

The purpose of this ordinance is to clarify and simplify lien procedures for the collection of delinquent and/or unpaid refuse collection charges to reimburse the City and provide for the ongoing maintenance of the City's refuse collection system, and to provide more service fee exemptions for citizens.

Section 3: Action Amending Sections

The City Council hereby amends Elk Grove Municipal Code Section 6.20.030, which is entitled "Definitions," and which is contained in Chapter 6.20 "Solid Waste management," as follows:

6.20.030 Definitions.

For purposes of this Chapter, the following terms are defined as follows:

- a) "Board" means the Board of Supervisors of the County.
- b) "California Integrated Waste Management Act" means the California Integrated Waste Management Act of 1989 set forth in California Public Resource Code at Sections 40050 et seq., as it may be amended.
- c) "Carts" means the trash, recyclables or greenwaste containers that are provided to the residential property by the franchised haulers for the placement of trash, recyclable and greenwaste materials for collection, transport or disposal by the franchise hauler. Carts range in size from 32 gallon, to 64 gallon, to 96 gallon capacity. All carts bear the City of Elk Grove logo.
- d) "City" means the City of Elk Grove.
- e) "City Council" means the Elk Grove City Council.
- f) "City Manager" means the City Manager or his or her designee.
- g) "Commercial refuse" is any refuse collected in bins or drop boxes or compactors or the like, or as otherwise prescribed by the Department, but does not include refuse collected from which is commonly considered a "garbage can", regardless of size.
- h) "County" means the County of Sacramento.
- i) "Department" means the Sacramento County Department of Public works acting by, through and under the authority of the director of public works, unless the context indicates otherwise.
- j) "Department of Health" or "Health Department" means the Sacramento County Environmental Management Department.
- k) "Garbage" includes, but is not limited to, the following: waste resulting from the handling of edible foodstuffs or resulting from decay, and solid or semisolid putrescible waste, and all other mixed, nonrecyclable wastes which are generated in the day-to-day operation of any business, residential, governmental, public or private activity, and may include tin cans, bottles and paper or plastic food or beverage containers.
- l) "Gender". The masculine includes the feminine and neuter.
- m) "Owner" for purposes of this Article means the person listed as owner of record in the County Assessor's Records, or the record owner's successors in interest, such as an executor, beneficiary, or County probate administrator of an owner's estate.
- n) "Permittee" means any person holding a permit pursuant to the provisions of this Chapter or, in the case of a commercial permittee, a permit issued by the SWA.
- o) "Person" means any individual, firm, copartnership, joint venture, association, corporation, governmental agency, and the plural as well as the singular.
- p) "Refuse" includes rubbish, garbage, or any of them.
- q) "Refuse collector" means the person who is permitted to engage in the collection and transportation of refuse.

- r) "Residential parcel" means an improved parcel of land, shown upon the County Assessor's most recent rolls, on which residential structures (single family, duplex, triplex, fourplex, and multi-family homes) are constructed and in which people can reside.
- s) "Rubbish" includes all the following, but is not restricted to, nonputrescible wastes, such as paper, cardboard, grass clippings, tree or shrub trimmings, wood, bedding, crockery, rubber tires, construction waste and similar waste materials.
- t) "Salvageable material" includes materials which can be separated from refuse and sold for reuse or recycling, but shall not include material disposed of at a landfill.
- u) "SWA" means the Sacramento Regional County Solid Waste Authority. (SCC 1044 § 2, 1986; SCC 517 § 2 (part), 1982.)
- v) "Solid waste" means solid waste defined in Section 40191 of the California Integrated Waste Management Act.
- w) "Solid waste handling" means solid waste handling as defined in Section 40195 of the California Integrated Waste Management Act, including, without limitation: (1) collection of residential garbage, refuse, bulky goods, electronic and other special waste and recyclables, and yard waste, and the transfer, processing, marketing and/ or disposal thereof, as the case may be; (2) development and implementation of the City's Source Reduction and Recycling Element and Hazardous Waste Element in accordance with the California Integrated Waste Management Act, Section 41000; and (3) disposal and recycling of household hazardous waste.
- x) "Truck" means any truck, trailer, semi-trailer, conveyance, vehicle or equipment approved by the Department used to collect or haul refuse.

Section 4: Action Repealing and Replacing Article

Section 6.20.520 "Owner Liability for Service Charges" is hereby amended to read as follows:

Article 5

Residential Solid Waste Handling Service Charges

6.20.520 Owner Liability for Service Charges.

- a. **Mandatory Service Charges.** All owners of residential parcels must pay to the City the service charges described in this Article, unless an exemption as provided in this section and in the City Garbage Collection Exemption Policy applies.
- b. **Exemptions.** An owner may apply for one of the service fee exemptions provided in this section by submitting a completed "Request for Garbage Collection Exemption" form, which can be obtained from the City Utility Billing Department. Within 30 days of receipt of a complete application, the application shall be reviewed and approved or denied by the City Manager and/or his/her designee at his sole discretion, according to the terms of the City Garbage Collection Exemption Policy. The City Manager or his/her designee shall notify the owner of record if the billing is changed to comply with such a request. Until the owner receives notification that the City has approved the

exemption application, the owner of record shall remain liable to pay city garbage collection services and any delinquent fees. The City may also grant temporary exemptions on its own initiative without owner application under "1. Vacancy" and "4. Temporary Exemptions" in this subsection below.

1. **Vacancy Exemption.** Owners of unoccupied residential parcels may seek an exemption from service charges for a stated period of absence or vacancy in accordance with the City's Garbage Collection Exemption Policy. Owners must give the City written notice within 30 days after the earlier of (1) re-occupation of residential parcels or (2) re-connection with water, sewer, electrical or gas utilities. The City may exempt an individual, named owner or a described group of owners (such as banks holding title to foreclosed residential parcels) from the obligation to pay service charges on the owner's or owners' respective residential parcel for a stated period or successive periods of vacancy following determination by the City Manager that the owner's or owners' specific circumstances warrant a vacancy exemption.
2. **Self-Haul Exemption.** Owners may qualify to collect or transport refuse by means other than City-provided services if they satisfy the criteria in Section 6.20.110 and the criteria in the City Garbage Collection Exemption Policy.
3. **Secondary Structure Exemption.** Owners of residential parcels bearing more than one residential structure may request to exempt the secondary structure from City garbage collection service charges if they satisfy the criteria in the City Garbage Collection Exemption Policy.
4. **Temporary Exemption -- Unusual Circumstances.** An owner who does not qualify for the exemptions listed herein, may seek review by the City Manager, who shall decide on a case-by-case basis whether the owner's specific circumstances warrant a temporary exemption, and shall specify a limited period of duration for the exception, not to exceed one year. The City Manager may decide on a case-by-case basis, on his or her own initiative without application from an owner or owners, that specific circumstances warrant granting an individual, named owner or a described group of owners a temporary exemption for a specified, limited period of duration, not to exceed one year.
5. **Foreclosure/Distressed Property.** Upon notification that a property may be under foreclosure action, City Staff will request visual inspection of the property by Allied Waste or the City's Neighborhood Services department. Once it is determined that the property is vacant, the City will arrange for the collection of all carts located at the property and billing will be discontinued for these services. If carts cannot be collected because they are inaccessible, the billing and the servicing at the property will be terminated without collection of the actual carts.

Section 5: 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 6: 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 7: 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 15 days after its passage, a summary of the ordinance may be published at least five 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).

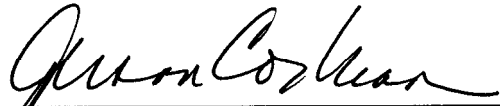
ORDINANCE: 38-2008
INTRODUCED: July 23, 2008
ADOPTED: August 27, 2008
EFFECTIVE: September 26, 2008



 GARY DAVIS, MAYOR of the
 CITY OF ELK GROVE

ATTEST:


 SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:


 SUSAN COCHRAN, CITY ATTORNEY

Date signed: Sept. 2, 2008

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 38-2008

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

I, Susan J. Blackston, 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 July 23 2008 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 27, 2008 by the following vote:

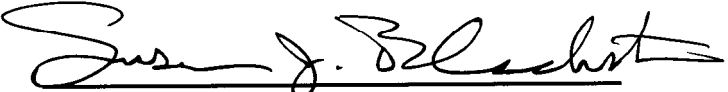
AYES : COUNCILMEMBERS: Davis, Hume, Scherman, Leary, Cooper

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

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


Susan J. Blackston, City Clerk
City of Elk Grove, California