

ORDINANCE NO. 9-2010

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ADOPTING ELK GROVE MUNICIPAL CODE CHAPTER 3.70
ENTITLED "UTILITY SERVICES BILLING"**

WHEREAS, the City has a need to bill for utility services provided to customers (such as Solid Waste and Storm Drain services); and

WHEREAS, the City has a need to address delinquent customer billing accounts; and

WHEREAS, the City has a need to charge appropriate fees for a resumption of suspended solid waste refuse; and

WHEREAS, the City desires to create a "Lifeline" rate for solid waste refuse services for customers that have established financial hardships; and

WHEREAS, a customer may request a service interruption in solid waste refuse services when their property may be vacated for a long period of time, in foreclosure, a distressed property or experiencing an unusual circumstance that may warrant the City Manager to allow that customer to suspend solid waste services; and

WHEREAS, the City has a need to charge appropriate fees for the disposal of household hazardous waste for customers who are not using the City's solid waste refuse services.

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 Article is to provide for the establishment, billing and collection of service charges for solid waste and storm drain utilities, referred to in this Article as "service charges."

Section 2: Adoption

The City Council hereby adopts Elk Grove Municipal Code Chapter 3.70 to read as follows:

**Chapter 3.70
UTILITY SERVICES BILLING**

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.

3.70.010 Level of Service Charges.

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

3.70.020 Service Account Creation.

A. Service Accounts will be created and billing activities will commence upon the occurrence of the following:

1. Storm Drain:

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

2. Solid Waste:

- a. Immediately following an application for solid waste or other utility services to the parcel or written notice that the residential parcel has become occupied or reconnected to utilities;
- b. Immediately upon written notification by the customer or occupant of the residential parcel to the City Manager that construction of a new, renovated or repaired structure on the residential parcel is completed;
- c. Upon approval of occupancy for a City building permit for occupancy.

B. Applications

All customers shall complete an application for service. The application shall be made on the form provided by the City. Before service is provided, the applicant must provide all information requested, show proper identification, sign the application and pay any applicable deposits.

C. Deposits

1. Applicants for both residential and commercial utility services will be required to establish credit before receiving such service. The amount of the deposit shall be set by the City Council by resolution.
2. Applicant shall not be required to pay the deposit established by this chapter under the following circumstances:
 - a. Applicant has been a user of the City utility service for twelve (12) consecutive months within the previous eighteen (18) months and during such time has paid all bills without delinquency;
 - b. Applicant provides the City with a credit reference from another utility company showing no instances of late or non-payment for no less than twelve (12) consecutive months prior to the date of commencement of service in the City of Elk Grove.
3. If service is discontinued for non-payment, the City may apply any deposit on file as necessary to liquidate the account. After a cash deposit has stood unimpaired for twelve (12) billing cycles, such deposit shall be credited to the depositor's account. Upon closing an account, the balance of any remaining deposit after the closing bill for service has been paid, shall be returned to the depositor.

3.70.030 Billing Procedures.

A. Forms of Bills

1. The City 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 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

1. The City Manager may adjust service charges on any bill in the manner that he/she deems appropriate. The City Manager may issue an adjustment to a utility account up to one (1) year from point of bill presentation during the cycle in

which the dispute is first brought to the attention of the City's Utility Billing Department.

3.70.040 Due Dates and Payment of Bills.

A. The City may bill the service charges monthly, bi-monthly, quarterly or annually, in advance or arrears, as determined by the City Manager. The City Finance Department will collect bill payments. 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.

B. Payments made by mail must be received no later than close of business for City offices on the due date. The City Manager may provide for payments to be made in person on or before the due date between posted hours on posted days, at specified locations. If a customer does not enclose full payment for all the services charges on the consolidated utility billing statement, the City will allocate the amount paid to each service charge proportionally.

3.70.050 Late Charges and Overdue Interest.

If any service charge becomes delinquent, a late charge of ten (10%) percent of the amount that has become delinquent will accrue thereon. The delinquent amount and late charge will thereafter accrue added overdue interest equal to the lesser of one and five-tenths (1.5%) percent per month and the maximum amount permitted by law until paid or placed on the annual tax bill. If the delinquent amount and a late charge are placed on the annual tax bill, the total delinquent amount plus all penalties will incur an additional ten (10%) percent penalty.

3.70.060 Nonpayment of Charges.

A. Storm Drain Lien.

1. The City shall notify the assessee shown on the latest equalized assessment roll whenever delinquent and unpaid fees, which would become a lien on the parcel pursuant to EGMC Section 3.70.060(B), remain delinquent and unpaid for sixty (60) 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 sixty (60) days and the City 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 Other Utility Services

1. Service shall be subject to termination if the bills, plus any applicable fees and penalties, remain unpaid for a period in excess of two (2) billing cycles. Delinquent amounts 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 EGMC Section 3.70.060 and such statement shall constitute a notice of the delinquency to the customer.
2. If the bill is not paid within forty-seven (47) days after the notice specified in EGMC Section 3.70.060(A), a final notice shall be provided to the customer advising that service will be discontinued if payment of the entire amount then due is not made within thirty (30) days after the date such notice was mailed.
3. Customers shall pay their account in full or establish a repayment plan to the satisfaction of the Finance Director within thirty (30) days of the postmark date of the final notice.
4. If service is interrupted due to non-payment and a deposit and application has not been previously collected, a deposit and an application shall be required to re-start services. A disconnect/reconnect fee shall be imposed on the customer at that time, whether or not all their containers have been retrieved. The amount of the disconnect/reconnect fee shall be as established by the City Council by resolution. If a customer receives service at more than one (1) location and the bill for service at one (1) location is not paid within the time provided for payment, service at all locations may be discontinued. When a service is discontinued due to nonpayment, service shall not be resumed until all charges, fees and penalties are paid. A customer's current service may be discontinued if the closing bill for service furnished at a previous location is not paid within sixty (60) days of transfer. No person who owes delinquent amounts to the City on either a closed or current account may open a new utility account until all such delinquent accounts have been paid.
5. Upon notification that a property may be under a foreclosure or short sale action, the City will discontinue solid waste services to the effected parcel.

6. Upon confirmation by a visual inspection of the property by either the City's residential contracted service provider or the City's Code Enforcement department that the property is vacant the City will discontinue solid waste service to the vacant parcel.

3.70.070 Household Hazardous Waste Availability Fee.

City may charge a monthly fee to all residents 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 Council may by resolution 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.

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 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 Chapter 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. 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: 9-2010
INTRODUCED: May 12, 2010
ADOPTED: May 26, 2010
EFFECTIVE: June 25, 2010



SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, INTERIM CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: June 1, 2010


**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 9-2010**

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

I, Jason Lindgren, Interim 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 May 12, 2010 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on May 26, 2010 by the following vote:

- AYES :** **COUNCILMEMBERS:** *Scherman, Detrick, Cooper, Davis, Hume*
- NOES:** **COUNCILMEMBERS:** *None*
- ABSTAIN:** **COUNCILMEMBERS:** *None*
- ABSENT:** **COUNCILMEMBERS:** *None*

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



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