

ORDINANCE NO. 17-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 15.12 STORMWATER MANAGEMENT AND DISCHARGE CONTROL

WHEREAS, the City of Elk Grove along with other co-permittee agencies has been issued a NPDES Stormwater Permit (Permit); and

WHEREAS, one of the Permit requirements is to track, inspect, and ensure compliance with stormwater ordinances at commercial and industrial facilities; and

WHEREAS, the Sacramento County Environmental Management Department ("EMD") as both the State designated Certified Unified Program Agency ("CUPA") and Environmental Health Agency for Sacramento County, has tracked, conducted inspections and otherwise regulated the majority of the commercial and industrial facilities that are subject to compliance with the Stormwater Ordinance; and

WHEREAS, the City wishes to amend the Stormwater Ordinance as necessary to authorize the County EMD to implement the stormwater compliance program for commercial and industrial facilities.

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 Chapter 15.12 Stormwater Management and Discharge Control to authorize the County EMD to implement the stormwater compliance program for commercial and industrial facilities.

Section 2: Findings

- A. The City is required to track, inspect and ensure compliance with stormwater ordinances at certain commercial and industrial facilities. Since 2004, EMD has tracked and inspected the majority of commercial and industrial facilities in the City subject to provisions of the Permit with no direct cost to the City.
- B. In 2009, as part of a global update of the Elk Grove Municipal Code, Section 15.12.620 was revised to provide that the County would conduct enforcement actions under the City's Municipal Code, thus removing the County's ability to conduct enforcement actions pursuant to the County's Code. At this time the County has requested for the City to amend Chapter 15.12 to authorize EMD to implement the stormwater compliance program for commercial and industrial facilities through the use of the County's Code. The City now wishes to revise its Code to allow the County to enforce these provisions pursuant to the County's Code.

Section 3: Amend Section 15.12.350 of the Elk Grove Municipal Code

Section 15.12.350 of Elk Grove Municipal Code Chapter 15.12 is hereby amended in its entirety to read as follows:

15.12.350 Fees

The Administrator shall collect such fees as may be authorized by the City Council to provide for the recovery of regulatory costs, including routine inspections and other regulatory functions associated with this chapter. There shall be no fee assessed to appeal the determination that a person conducts any subject activity. Any such fees shall be established by resolution of the City Council. Sacramento County may establish and collect fees from commercial and industrial facilities within the City pursuant to Elk Grove Municipal Code Section 15.12.620.C.

Section 4: Repeal Section 15.12.600 of the Elk Grove Municipal Code

Section 15.12.600 Findings of Elk Grove Municipal Code Chapter 15.12 is hereby repealed in its entirety.

Section 5: Amend Section 15.12.610 of the Elk Grove Municipal Code

Section 15.12.610 of Elk Grove Municipal Code Chapter 15.12 is hereby amended in its entirety to read as follows:

15.12.610 Purpose and Intent

The purpose of this article is to provide for tracking, inspection, and enforcement of the City's stormwater ordinance with respect to commercial and industrial facilities within the incorporated City area as required by the municipal stormwater permit.

Section 6: Amend Section 15.12.620 of the Elk Grove Municipal Code

Section 15.12.620 of Elk Grove Municipal Code Chapter 15.12 is hereby amended in its entirety to read as follows:

15.12.620 Delegation of Authority to County EMD

A. Subject to an agreement approved by the City Council under which the County of Sacramento shall assume responsibility for tracking, inspecting, and enforcing the City's stormwater ordinance at certain commercial and industrial facilities specified in the municipal stormwater permit, the City hereby authorizes and delegates to the County of Sacramento the authority to enforce the City's stormwater ordinance at certain commercial and industrial facilities specified in the municipal stormwater permit, and the term "Administrator," as used in this chapter, shall also mean the Director of the Sacramento County Environmental Management Department and his or her designees.

B. Any administrative or civil enforcement by the Director of the Sacramento County EMD or his or her designees of any provision of this chapter under this article shall be governed by and conducted pursuant to Chapter 15.12 of the Sacramento County Code.

C. Sacramento County may establish and collect from commercial and industrial facilities located within the City such fees as may be necessary to cover the actual costs incurred by Sacramento County to include these facilities in its commercial and industrial compliance program; provided, that the fees are established and collected in accordance with the provisions of the agreement and all applicable legal requirements.

D. The delegation of authority to Sacramento County under this article is limited to only that required by an agreement as may be necessary to allow the Director of the County EMD to track, inspect, and ensure compliance with the City's stormwater ordinance at commercial and industrial facilities as required under the municipal stormwater permit.

Section 7: Repeal Section 15.12.630 of the Elk Grove Municipal Code

Section 15.12.630 Expiration of this article of Elk Grove Municipal Code Chapter 15.12 is hereby repealed in its entirety.

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.

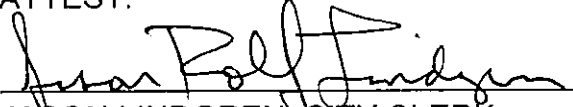
Section 11: Effective Date and Publication

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).

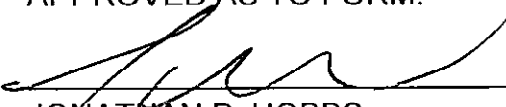
ORDINANCE: 17-2016
INTRODUCED: July 27, 2016
ADOPTED: August 24, 2016
EFFECTIVE: September 23, 2016



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Signed: September 15, 2016

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 17-2016**

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 July 27, 2016 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 24, 2016 by the following vote:

| | | |
|-----------------|------------------------|---------------------------------------|
| AYES : | COUNCILMEMBERS: | <i>Davis, Ly, Detrick, Hume, Suen</i> |
| NOES: | COUNCILMEMBERS: | <i>None</i> |
| ABSTAIN: | COUNCILMEMBERS: | <i>None</i> |
| ABSENT: | COUNCILMEMBERS: | <i>None</i> |

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

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