

## ORDINANCE NO. 06-2022

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE REPEALING AND REPLACING ELK GROVE MUNICIPAL CODE CHAPTER 16.120 DEFERRAL OF CERTAIN IMPACT FEES AND AMENDING SECTION 16.97.050 TIMING OF COLLECTION OF FEE (CEQA EXEMPT)

**WHEREAS**, the City of Elk Grove ("City") requires the payment of various types of impact fees to help address the impacts of new development; and

**WHEREAS**, the City recognizes that the payment of impact fees represents a substantial financial commitment for many development projects; and

**WHEREAS**, the City recognizes that in some cases deferring the payment of certain impact fees to a later date may assist in the development of projects; and

**WHEREAS**, the deferral of payment of certain impact fees has become an important tool in the City's efforts to facilitate new residential and commercial development, attract and expand businesses to and within the City, and to create jobs and grow the City's tax base; and

**WHEREAS**, Elk Grove Municipal Code (EGMC) Chapter 16.120 has provided for the deferral of payment of certain impact fees under specified circumstances; and

**WHEREAS**, staff recommends repealing and replacing EGMC Chapter 16.120 to authorize the City Manager to execute fee deferral agreements pursuant to the City of Elk Grove Impact Fee Deferral Program Policies, Guidelines, and Procedures for the City of Elk Grove Impact Fee Deferral Program adopted by resolution; and

**WHEREAS**, the repeal and replacement of EGMC Chapter 16.120 necessitates an amendment to EGMC Section 16.97.050, which references the fee deferral program set forth in EGMC Chapter 16.120.

**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 repeal and replace Elk Grove Municipal Code Chapter 16.120 Deferral of Certain Impact Fees to authorize the City Manager to execute fee deferral agreements pursuant to the City of Elk Grove Impact Fee Deferral Program and Section 16.97.050 Timing of Collection of Fee to remove reference to the provisions of EGMC Chapter 16.120.

#### Section 2: CEQA Findings:

Finding: The adoption of this ordinance and the adoption of the associated resolution are exempt from the provisions of the California Environmental Quality Act (CEQA).

Evidence: The ordinance and the associated resolution continue the existing fee deferral program in the form of a policy adopted by resolution. The proposed activity does not approve any physical development project. Any development project that might be eligible for a fee deferral under the fee deferral program would be subject to its own review under

CEQA. The adoption of the ordinance and associated resolution will not have a direct physical change or a reasonably foreseeable indirect physical change in the environment. Therefore, the adoption of the ordinance, and the associated resolution, do not constitute the approval of a project under the CEQA, and they are also exempt from CEQA under the commonsense exemption. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

Section 3: Repeal and Replace Elk Grove Municipal Code Chapter 16.120 titled Deferral of Certain Impact Fees.

Elk Grove Municipal Code Chapter 16.120 is hereby repealed in its entirety and replaced with the following:

**Chapter 16.120  
DEFERRAL OF CERTAIN IMPACT FEES**

**Sections:**

**16.120.010 Authorization of the City Manager to Defer Impact Fees**

**16.120.010 Authorization of the City Manager to Defer Impact Fees.**

**The City Manager shall be authorized to execute development impact fee deferral agreements consistent with any programs, policies, guidelines, and/or procedures adopted by resolution of the City Council.**

Section 4: Amend Elk Grove Municipal Code Section 16.97.050 titled Timing of collection of fee.

*(All additions are shown as **bold text**, deletions in ~~strikethrough~~)*

Elk Grove Municipal Code Section 16.97.050 is hereby amended to read:

16.97.050 Timing of collection of fee.

A. Except as otherwise provided in ~~EGMC Chapter 16.120~~ **the City of Elk Grove Impact Fee Deferral Program Policies, Guidelines, and Procedures** ~~relating to deferral of payment of fees~~, the fees established by this chapter shall be paid for the property on which a development project is proposed, that exceeds the thresholds of significance for cumulative mainline freeway impacts at the time of the issuance of any required building permit relating to such development. Should the project applicant decline to pay the voluntary I-5 Subregional Corridor fee it shall provide a traffic model analysis of cumulative mainline freeway impacts for the project and address mitigation for impacts to Caltrans's mainline facilities and provide alternative mitigation by payment of a different fee, provision of infrastructure, or other mitigation agreeable to the City and Caltrans.

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: 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 effect 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 8: 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:**           **06-2022**  
**INTRODUCED:**       February 9, 2022  
**ADOPTED:**           February 23, 2022  
**EFFECTIVE:**         March 25, 2022

  
BOBBIE-SINGH ALLEN, MAYOR of the  
CITY OF ELK GROVE

ATTEST:  
  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:  
  
JONATHAN P. HOBBS,  
CITY ATTORNEY

Date signed: February 25, 2022

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL ORDINANCE NO. 06-2022**

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 February 9, 2022, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 23, 2022, by the following vote:*

**AYES:**           **COUNCILMEMBERS:** *Singh-Allen, Suen, Hume, Spease, Nguyen*

**NOES:**           **COUNCILMEMBERS:** *None*

**ABSTAIN:**       **COUNCILMEMBERS:** *None*

**ABSENT:**       **COUNCILMEMBERS:** *None*

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

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