

ORDINANCE NO. 11-2007

**AN ORDINANCE AMENDING CHAPTER 16.91
OF THE ELK GROVE MUNICIPAL CODE RELATING TO PARK DEVELOPMENT
IMPACT FEES FOR EASTERN ELK GROVE**

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 Chapter 16.91 of the Elk Grove Municipal Code to remove references to development impact fees in the Eastern Elk Grove area related to fire protection facilities, because such fees will be governed on a citywide basis by Chapter 16.85, and to make additional changes to conform to City practice regarding fees collected for other public agencies. The City Council enacts this ordinance pursuant to the authority granted cities by Article XI, Section 7 of the California Constitution.

SECTION 2. AMENDMENT.

Chapter 16.91 of the Elk Grove Municipal Code is amended to read in its entirety as follows:

**CHAPTER 16.91
EASTERN ELK GROVE PARK FEE**

Sections:

- 16.91.010 Purpose
- 16.91.020 Definitions
- 16.91.030 Establishment of Eastern Elk Grove Park Facilities Fund
- 16.91.040 Establishment of Eastern Elk Grove Park Fee Program
Administration Account
- 16.91.050 Adoption of Eastern Elk Grove Park Fee
- 16.91.060 Calculation of Eastern Elk Grove Park Fee
- 16.91.070 Payment of Development Fees
- 16.91.080 Fee Credits and Reimbursements
- 16.91.090 Compliance with Other Laws

16.91.010 PURPOSE.

a. The City's General Plan requires that areas chosen for urban expansion shall be capable of being provided within a reasonable period of time with an adequate level of public facilities.

b. The General Plan further requires the preparation of a plan that identifies a mechanism for financing and providing for those facilities necessary to serve urban development in areas designated for urban expansion.

c. The purpose of this Chapter is to implement the General Plan requirements set forth in subdivisions (a) and (b) of this section and to use the authority in Article XI, Section 7 of the California Constitution by imposing fees to fund the cost of certain park protection facilities the need for which is generated by the type and level of development designated in the General Plan.

d. The Eastern Elk Grove Park Fee will apply only to all territory located in the area of the City east of State Route 99.

e. The City Council hereby determines that payment of the Eastern Elk Grove Park Fee will be collected for public facilities for which an account has been established hereby and that are included within the capital improvement plan of the Elk Grove Community Services District as described in the Nexus Study.

16.91.020 DEFINITIONS.

- a. "Age-Restricted Unit" means a unit in a senior citizen housing development, as described in Section 51.3 of the California Civil Code, the age restrictions with respect to the occupancy of which are contained in recorded covenants, conditions, and restrictions, or another recorded instrument approved by the City Attorney, and provide that they remain in effect for at least forty years.
- b. "Building Permit" means the permit issued or required for the construction or improvement of additional square footage for any structure pursuant to and as defined by the City of Elk Grove Building Code.
- c. "City" means the City of Elk Grove.
- d. "City Council" means the City Council of the City of Elk Grove.
- e. "Costs" means amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of a facility including, without limitation, the costs of land, construction, engineering, administration, and consulting fees.
- f. "Cosumnes CSD" means the Cosumnes Community Services District (formerly known as the Elk Grove Community Services District) or its successor agency as provider of parks in Eastern Elk Grove.
- g. "Development Fee" means the Eastern Elk Grove Park Fee, the fee described in this Chapter to be collected upon the approval of building permits within areas of the City east of State Route 99.
- h. "Eastern Elk Grove Park Fee Program" means the program described in this Chapter of levying, collecting, and administering of the Development Fee.

- i. "Eastern Elk Grove Park Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.91.030.
- j. "Eastern Elk Grove Park Fee Administration Account" means that special interest-bearing trust account established pursuant to Section 16.915.040.
- k. "Facilities" means the facilities financed by the Development Fee.
- l. "Fee Resolution" means the resolution adopted by the City Council that adopts, levies, and establishes the amount of the Development Fee.
- m. "Finance Director" means the Finance Director for the City of Elk Grove.
- n. "Land use category" means a single family, multi-family, or non-residential land use as further defined in the Fee Resolution.
- o. "Nexus Study" means the Elk Grove Community Services District Eastern Elk Grove Park and Fire Facilities Fee Nexus Study, dated February 13, 2004.
- p. "Non-Residential Development" means a subdivision map, parcel map, or permit for the original construction, grading or installation of construction other than single-family detached homes, single-family attached homes, duplexes, townhomes, condominiums, apartments, manufactured homes and mobilehomes.
- q. "Residential Development" means a subdivision map, parcel map, or permit for the original construction, grading or installation of single-family detached homes, single-family attached homes, duplexes, townhomes, condominiums, apartments, manufactured homes and mobilehomes.

16.91.030 ESTABLISHMENT OF EASTERN ELK GROVE PARK FACILITIES FUND.

The City Treasurer shall create a special interest-bearing trust fund entitled the Eastern Elk Grove Park Facilities Fund. That component of the Development Fee that is collected for park facilities shall be placed in the fund and shall be expended by the City or transferred to the Cosumnes CSD for expenditure solely to pay the costs of park facilities identified in the Nexus Study. Within the fund there is hereby created an account into which shall be deposited that portion of the Development Fee that is collected for administrative costs that is to be transferred for the use of the Cosumnes CSD.

16.91.040 ESTABLISHMENT OF EASTERN ELK GROVE PARK FEE PROGRAM ADMINISTRATION ACCOUNT.

The City Treasurer shall create a special interest-bearing trust account (within the Eastern Elk Grove Park Fund) entitled the Eastern Elk Grove Park Fee Program

Administration Account. That component of the Development Fee that is collected for the City's administrative costs as described in this Chapter shall be deposited in the account and shall be expended by the City solely to pay the costs of administering the Eastern Elk Grove Park Fee Program.

16.91.050 ADOPTION OF DEVELOPMENT FEE.

The City Council shall adopt, levy, and establish the amount of the Development Fee by resolution.

16.91.060 CALCULATION OF EASTERN ELK GROVE PARK FEE.

a. For Residential Development, the Eastern Elk Grove Park Fee shall be calculated by multiplying the number of units per land use category by a cost per unit factor as identified in the Fee Resolution.

b. For Non-Residential Development, the Eastern Elk Grove Park Fee shall be calculated by multiplying the number of building square feet per land use category by a cost per square foot factor as identified in the Fee Resolution.

c. For the purpose of calculating the Eastern Elk Grove Park Fee for land use categories not described in this Chapter or the Fee Resolution, the Finance Director, in conjunction with the Cosumnes CSD, is hereby authorized to determine the land use category that corresponds most directly to the land use. Alternatively, the Finance Director, in conjunction with the Cosumnes CSD, may determine that no land use category corresponds and determine the Eastern Elk Grove Park Fee.

d. In January of each calendar year, the amount of the Eastern Elk Grove Park Fee shall be automatically adjusted by average of the change in the San Francisco Construction Cost Index (CCI) and the change in the 20-City CCI as reported in the Engineering News Record for the 12 month period ending October of the prior year.

16.91.070 PAYMENT OF DEVELOPMENT FEES.

The development fee imposed pursuant to this Chapter shall be paid by the property owner to the City, in an amount established by the Fee Resolution and calculated as further described in Section 16.91.060. The fee shall be both calculated and paid upon the issuance of building permits.

16.91.080 FEE CREDITS AND REIMBURSEMENTS

a. Eligibility. Fee credits and reimbursements will be available to developers who fund construction of eligible park facilities. The Cosumnes CSD will determine which facilities will be eligible for developers to construct. Facilities must meet Cosumnes CSD standards for acquisition projects in order to be eligible for fee credits or reimbursements. Developers will be responsible for complying with all applicable laws, codes, and regulations relating to contracting and construction procedures for publicly-funded public works projects.

b. Amount of Fee Credits/Reimbursements. Developers will be eligible for fee credits up to 100% of the Eastern Elk Grove Park Fee, excluding the administration fee portion. Fee credits/reimbursements will be available for the facility cost up to the lesser of (i) the cost shown in the Nexus Study and (ii) actual construction cost of the eligible facilities. Fee credits/reimbursements will be adjusted each January 1 by the change in the average of the San Francisco and 20-city Construction Cost Indexes as reported in the Engineering News Record for the twelve month period ending October of the prior year. Once fee credits have been determined, they will be used at the time the respective fees would be due. The Cosumnes CSD will be responsible for determining the fee credit amount and will provide this information to the City.

c. Timing and Allocation of Fee Credits. Once all criteria are met, fee credits may be taken against fees when payable at building permit issuance. To obtain fee credits, the park facilities must meet all Cosumnes CSD standards and criteria, and developers must apply to the Cosumnes CSD before payment of fees. The Cosumnes CSD maintains the flexibility to allocate fee credits in a manner it chooses. Fee credits granted shall be on a per-unit basis for residential development and a per-square foot basis for nonresidential development projects.

d. Timing and Allocation of Reimbursements. Reimbursements will be due to developers who finance facilities in excess of their fair share of the cost of the park facilities. In such a case, developers would first obtain fee credits up to their fair share cost requirement for a facility and then await reimbursement from fee revenue collections from other fee payers. Reimbursement priority will be determined on a first-in and first-out basis. When funds are available, and no high priority projects need to be financed, reimbursements will be paid to the first developer waiting for reimbursement. Once that developer is paid in full, the next developer awaiting reimbursement will start to be repaid in full. To obtain reimbursements, developers must enter into a reimbursement agreement with the Cosumnes CSD. Reimbursements will be paid only after Cosumnes CSD acceptance of park facilities. Reimbursements are an obligation payable only from the Eastern Elk Grove Park Fee Program funds and not an obligation of the Cosumnes CSD General Fund or the City.

16.91.090 COMPLIANCE WITH OTHER LAWS.

This Chapter is intended to establish a method for funding the cost of certain facilities the need for which will be generated by the level and type of development proposed in the City of Elk Grove. The provisions of this Chapter shall not be construed to limit the power of the City Council to impose any other fees or exactions or to continue to impose existing ones, on development within the City, but shall be in addition to any other requirements that the City Council is authorized to impose, or has previously imposed, as a condition of approving plans, rezonings or other entitlements within the City pursuant to state and local laws. In particular, individual property owners shall remain obligated to fund, construct, and/or dedicate the improvements, public facilities and other exactions required by, but not limited to: The City of Elk Grove Department of Public Works Improvement Standards. Any credits or repayments

pursuant to this Chapter shall not include the funding, construction or dedications described in this section.

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 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 that 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. EFFECTIVE DATE AND PUBLICATION.

This ordinance shall take effect on the effective date of the Elk Grove Fire Fee approved by Resolution No. 2007- 33 adopted on February 14, 2007, pursuant to Chapter 16.85 of the Elk Grove Municipal Code (which date is no sooner than thirty (30) days after the adoption of this ordinance). 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 Government Code section 36933(c)(1).

ORDINANCE NO. 11-2007

INTRODUCED: February 14, 2007
ADOPTED: February 28, 2007
EFFECTIVE: March 30, 2007



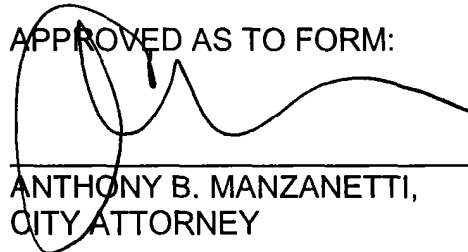
JAMES COOPER, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 11-2007**

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

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance was duly introduced on February 14, 2007 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 28, 2007 by the following vote:


AYES : COUNCILMEMBERS: Scherman, Cooper, Davis, Leary

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Hume

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



**Peggy E. Jackson, City Clerk
City of Elk Grove, California**

