

ORDINANCE NO. 4-2010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 16.120 RELATIVE TO DEFERRAL OF CERTAIN IMPACT FEES TO INCLUDE CITYWIDE FIRE FEES AS AN APPLICABLE FEE PROGRAM AND EXTENDING THE PROGRAM EXPIRATION DATE TO JUNE 30, 2012

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

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

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

WHEREAS, the city collects certain development impact fees on behalf of the Cosumnes Community Services District (CCSD); and

WHEREAS, Elk Grove Municipal Code Chapter 16.120 provides for the deferral of fees under specified circumstances; and

WHEREAS, the City desires to amend Elk Grove Municipal Code Chapter 16.120 to include certain development impact fees collected on behalf of the CCSD.

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 Chapter 16.120 to the Elk Grove Municipal Code as shown in Sections 3 and 4, below. This Ordinance is authorized by Article 11, Section 7 of the California Constitution.

Section 2: Findings

Finding: The proposal to amend Chapter 16.120 to the Elk Grove Municipal Code is exempt from the provisions of the California Environmental Quality Act (CEQA). A Notice of Exemption has been prepared and completed in accordance with CEQA.

Evidence: CEQA Guidelines Section 15061(b)(3) states that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. The proposed amendment to Chapter 16.120 would broaden the program allowing for the deferral of certain development impact fees and does not propose nor authorize any action that would have a potential to cause a significant adverse effect on the environment. Furthermore, Chapter 16.120 states that in order to be eligible for a development fee deferral, a project must have completed all environmental compliance requirements.

Thus, it can be seen with certainty that the amendment to Chapter 16.120 will not have a significant adverse effect on the environment and is therefore not subject to CEQA.

Finding: The proposed adoption of the amendment to the Municipal Code is in the public interest.

Evidence: The City has reviewed the proposed amendment to Chapter 16.120, reviewed the staff report, and has received public testimony at a duly noticed public meeting regarding the matter. The deferral of the payment of fees is specifically intended to help facilitate the development of projects, which the City expects will result in positive benefits through the creation of new residential development, retail development, employment opportunities, and sales tax and other revenues. Chapter 16.120 specifically provides that the deferral of fees shall not negatively affect the ability of the City to proceed with capital improvements funded by development impact fees.

Section 3: Amendment

The City Council hereby amends Section 16.120.030 of the Elk Grove Municipal Code to read as follows:

16.120.030 Applicable fee programs.

A. Notwithstanding any other provision of this Code, upon application and approval pursuant to Section 16.120.050 of this Chapter, an approved development project shall pay and the following fees shall be collected pursuant to the provisions of this Chapter:

1. Capital Facilities Fee;
2. Affordable Housing Fee;
3. Very Low-Income Housing Trust Fund Fee;
4. Citywide Roadway Fee; and
5. Citywide Fire Fee.

Section 4: Amendment.

The City Council hereby amends Section 16.120.120 of the Elk Grove Municipal Code to read as follows:

16.120.120 Expiration.

This Chapter shall remain in effect until June 30, 2012, and as of that date is repealed.

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 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: 4-2010
INTRODUCED: January 27, 2010
ADOPTED: February 10, 2010
EFFECTIVE: March 12, 2010



SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: February 17, 2010

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 4-2010**

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 January 27, 2010 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 10, 2010 by the following vote:

AYES : **COUNCILMEMBERS:** *Scherman, Detrick, Davis, Hume*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *Cooper*

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**