

**ORDINANCE NO. 16-2005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AMENDING CHAPTER 16.83 OF THE ELK GROVE MUNICIPAL CODE RELATING  
TO A DEVELOPMENT IMPACT FEE FOR FIRE PROTECTION FACILITIES IN THE  
LAGUNA SOUTH AREA**

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 16.83 of the Elk Grove Municipal Code, which provides for development impact fees in the Laguna South area of the City of Elk Grove. All the facilities components of the original City of Elk Grove Laguna South Public Facilities Fee Program except for fire protection facilities have been subsumed into other fee programs. This ordinance amends Chapter 16.83 to delete those provisions that relate to facilities other than fire protection facilities.

**Section 2. Amendment.**

Chapter 16.83 of the Elk Grove Municipal Code is amended to read in its entirety as follows:

**CHAPTER 16.83**

**CITY OF ELK GROVE LAGUNA SOUTH FIRE PROTECTION FACILITIES FEE**

Sections:

- 16.83.010 Purpose
- 16.83.020 Definitions
- 16.83.030 Establishment of City of Elk Grove Laguna South Fire Protection Facilities Fund
- 16.83.040 Establishment of City of Elk Grove Laguna South Fire Protection Facilities Fee Program Administration Costs Fund.
- 16.83.050 Adoption of Laguna South Fire Protection Facilities Fee
- 16.83.060 Calculation of Laguna South Fire Protection Facilities Fee
- 16.83.070 Payment of Development Fees
- 16.83.080 Compliance with Other Laws

**16.83.010 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, including fire protection 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 capital facilities the need for which is generated by the type and level of development designated in the General Plan.

d. The City Council hereby determines that payment of the Laguna South Fire Protection Facilities Fee will be collected for public facilities for which an account has been established hereby and that are included within the City's capital improvement plan.

#### **16.83.020 DEFINITIONS.**

- a. "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.
- b. "City" means the City of Elk Grove.
- c. "City of Elk Grove Laguna South Fire Protection Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.030.
- d. "City of Elk Grove Laguna South Fire Protection Facilities Fee Administration Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.040.
- 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. "Council" means the City Council of the City of Elk Grove.
- g. "Department" means the City of Elk Grove Public Works Department.
- h. "Development Fee" means the Laguna South Fire Protection Facilities Fee, the fee described by this Chapter to be collected upon the approval of building permits within City boundaries.
- i. "Elk Grove CSD" means the Elk Grove Community Services District or its successor agency as provider of fire protection services in the Laguna South area.

- j. “Engineer” means the City Engineer of the City of Elk Grove.
- k. “Facilities” means the facilities financed by the Laguna South Fire Protection Facilities Fee.
- l. “Fee Resolution” means the resolution adopted by the City Council that adopts, levies, and establishes the amount of the Laguna South Fire Protection Facilities Fee.
- m. “Finance Director” means the Finance Director for the City of Elk Grove.
- n. “Laguna South area” means that area within Elk Grove described in the Laguna South Fire Facilities Fee Program Nexus Study Update dated November 3, 2004, prepared by Economic and Planning Systems, Inc.
- o. “Laguna South Fire Protection Facilities Fee Program” means the program described in this Chapter of levying, collecting, and administering of the Laguna South Fire Protection Facilities Fee.
- p. “Land use category” means a single family, multi-family, or non-residential land use as further defined in the Fee Resolution.
- q. “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.
- r. “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.

**16.83.030 ESTABLISHMENT OF CITY OF ELK GROVE LAGUNA SOUTH FIRE PROTECTION FACILITIES FUND.**

The City Treasurer shall create a special interest-bearing trust fund entitled the City of Elk Grove Laguna South Fire Protection Facilities Fund. That component of the Development Fee that is collected to pay the costs of fire protection facilities shall be placed in said fund and shall be expended by the City or transferred to the Elk Grove CSD for expenditure expended solely to pay the costs of fire protection facilities and equipment. 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 Elk Grove CSD.

**16.83.040 ESTABLISHMENT OF CITY OF ELK GROVE LAGUNA SOUTH FIRE PROTECTION FACILITIES FEE PROGRAM ADMINISTRATION ACCOUNT.**

The City Treasurer shall create a special interest-bearing trust account (within the City of Elk Grove Laguna South Fire Protection Facilities Fund) entitled the City of Elk Grove Laguna South Fire Protection Facilities Fee Program Administration Costs 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 said account and shall be expended by the City solely to pay the costs of administering the Laguna South Fire Protection Facilities Fee Program.

**16.83.050 ADOPTION OF LAGUNA SOUTH FIRE PROTECTION FACILITIES FEE.**

The City Council shall adopt, levy, and establish the amount of the Laguna South Fire Protection Facilities Fee by resolution. The Development Fee shall be applicable to development within the Laguna South area. The Development Fee is the successor to the fire protection facilities fee component of the Laguna South Public Facilities Fee.

**16.83.060 CALCULATION OF LAGUNA SOUTH FIRE PROTECTION FACILITIES FEE.**

a. For Residential Development, the Laguna South Fire Protection Facilities 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 Laguna South Fire Protection Facilities 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 Laguna South Fire Protection Facilities Fee for land use categories not described in this Chapter or the Fee Resolution, the Finance Director, in conjunction with the Elk Grove 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 Elk Grove CSD, may determine that no land use category corresponds and determine the Laguna South Fire Protection Facilities Fee.

d. In January of each calendar year, the amount of the Laguna South Fire Protection Facilities Fee shall be automatically adjusted by the 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.

### **16.83.070 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 16.83.060. The fee shall be both calculated and paid upon the issuance of building permits.

### **16.83.080 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.

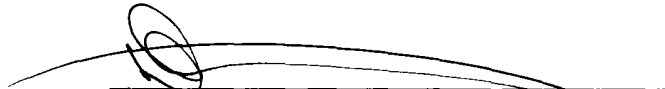
### **Section 4: Severability.**

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 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: 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 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).

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 11<sup>th</sup> day of May 2005.



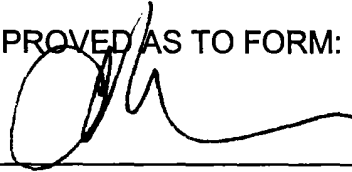
DANIEL BRIGGS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**Effective Date: June 10, 2005**

**AYES: Scherman, Soares, Briggs, Cooper, Leary**  
**NOES: None**  
**ABSTAIN: None**  
**ABSENT: None**