

**ORDINANCE NO. 11-2010**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 15.10 TITLED STORM DRAINAGE FEE**

**WHEREAS**, the City maintains a system of storm and surface water management facilities within the City, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, overland release corridors, and other components as well as natural waterways; and

**WHEREAS**, those elements of the City's storm and surface water management system that provide for the collection, storage, treatment, and conveyance of storm drainage are of benefit and provide services to all developed property within the City; and

**WHEREAS**, the cost of operating and maintaining the storm drainage management system, including necessary repairs, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom; and

**WHEREAS**, erosion and the discharge of nutrients, metals, oil, grease, and other substances into and through the storm drainage system is resulting in the degradation of water quality; and

**WHEREAS**, the public health, safety and welfare are adversely affected by poor water quality and flooding resulting from inadequate storm drainage management practices; and

**WHEREAS**, the storm drainage management practices necessary to protect water quality are largely established by Federal and State statutes, regulations and permitting requirements; and

**WHEREAS**, real property either uses or benefits from the presence and operation of the storm drainage management system; and

**WHEREAS**, the use of the storm drainage system is dependent on factors that influence runoff, including land use and impervious area; and

**WHEREAS**, the City has the authority under Section 5471 of the Health and Safety Code to prescribe, revise and collect fees, tolls, rates, rentals and other charges for facilities and services furnished by it in connection with its storm drainage system; and

**WHEREAS**, the Legislature, through the adoption of Section 5471 of the Health and Safety Code, has specifically authorized the City to provide storm drainage services as a utility function for which service charges may be levied; and

**WHEREAS**, storm drainage services which are currently provided in the City are funded through a combination of property tax revenue and benefit assessments; and

**WHEREAS**, property taxes have proven to be an unreliable source of revenue due to the State of California's recent proclivity for shifting local property tax revenue from the City and special districts to schools; and

**WHEREAS**, benefit assessments are an undesirable revenue mechanism because of the significant lag-time between the time that the assessments are approved and the time that they are received as part of the real property tax collection and allocation process. The lag-time creates the need to include a component in the assessment to provide a reserve for dry period financing purposes; and

**WHEREAS**, a fee to fund storm drainage services offers a reliable and consistent source of revenue that is locally controlled and independent of the vagaries of the State of California's budget process.

**NOW THEREFORE**, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose and Authority

The purpose of this chapter is to establish a mechanism for funding the operation and maintenance of the City storm drainage system in order that storm and surface waters may be properly drained and controlled so that the health, safety and welfare of the City and its inhabitants may be safeguarded and protected as provided for under Sections 5471 through 5474 of the California Health and Safety Code.

Section 2: Repeal of Chapter 15.10

The City Council hereby repeals the existing Elk Grove Municipal Code Chapter 15.10.

Section 3: Adoption

The City Council hereby adopts a new Elk Grove Municipal Code Chapter 15.10 to read as follows:

**Chapter 15.10  
STORM DRAINAGE FEE**

Sections:

- 15.10.010 Definitions.
- 15.10.020 Levy of charge for storm drainage services.
- 15.10.030 Levy of charge in the South Elk Grove storm drainage utility fee area.
- 15.10.040 Reduction of fee.
- 15.10.050 Administration and enforcement.

- 15.10.060 Administrative appeal.
- 15.10.070 Deposit of collections.
- 15.10.080 Map of storm water utility fee areas.

#### **15.10.010 Definitions.**

The meanings ascribed to the terms set forth in this section shall govern the interpretation of this chapter.

##### **A. "A" Definitions.**

1. "Administrative charge" means the charge imposed by the City's consolidated utility billing service for the actual cost of billing for, and collection of, storm drainage service fees.

##### **B. Reserved for future use.**

##### **C. "C" Definitions.**

1. "City storm drainage system" means the system of storm and surface water management facilities, including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, overland release corridors and other components, as well as natural waterways within the City, that are either owned or operated by the City.
2. "Commercial/office use" means the use of any developed parcel for any of the following or similar purposes: offices; wholesale or retail sales establishments or the provision of personal, professional or business services, including but not limited to: retail stores; shopping centers; restaurants; service stations; car washes; vehicle, boat and trailer sales lots; parking lots; automobile repair and service facilities; auction yards; advertising offices; nurseries; general offices; financial service facilities; medical and dental offices; clinics and laboratories; and veterinary offices, clinics and hospitals.
3. "County" means the County of Sacramento.

##### **D. "D" Definitions.**

1. "Developed parcel" means any parcel of land altered from its natural state by the construction, creation or addition of impervious area.

##### **E. "E" Definitions.**

1. "Engineer" means the City Engineer of the City of Elk Grove or his or her designee.

2. "Equivalent contributing parcel area" means the calculated area which, when multiplied by the impervious factor for the parcel's use classification, yields the parcel's measured impervious area.
3. "Exempt use" means the use of any public or undeveloped property and the use of any other parcel for any of the following purposes: agricultural land used for crops or pasture, aquatic farms, orchards, City-maintained drainage ditches, property within a floodplain recognized by the City on which improvements are prohibited, and levees.

F. "F" Definitions.

1. "Fiscal year" means the annual period beginning July 1st and ending June 30th.

G. Reserved for future use.

H. Reserved for future use.

I. "I" Definitions.

1. "Impervious area" means the total area of a parcel of property covered by an impervious surface.
2. "Impervious factor (IF)" means a factor which represents the percentage of impervious area on a parcel which consists of a numerical value that is calculated on the basis of generally accepted engineering standards, review and application of such standards to local conditions, and statistics compiled by measuring impervious areas depicted on aerial photographs of real property.
3. "Impervious surface" means any surface on or in any parcel which reduces the rate of infiltration of stormwater into the soil.
4. "Industrial use" means the use of any developed parcel for any of the following or similar purposes: to manufacture, fabricate, process or package products; to process or store food or chemical products; or for storage or warehousing purposes, including, but not limited to, processing, fabrication and assembly plants, warehouses, wrecking yards, aerospace facilities, truck and other transportation terminals, building materials storage, bakeries, canneries, wineries, creameries, meat and frozen food processing facilities, meatpacking plants, slaughter yards, inspection and weighing stations, airports, railroads and railroad spurs, wells, electrical substations, water or sewage treatment plants, and mini-storage facilities.

5. "Institutional use" means the use of any developed parcel for any of the following or similar purposes: hospitals, nursing facilities, residential care facilities, retirement homes, day nurseries, mortuaries, churches, and schools.

J. Reserved for future use.

K. Reserved for future use.

L. "L" Definitions.

1. "Low impervious development use" means the use of any developed parcel for any of the following or similar purposes: golf courses, surface mines, cemeteries, marinas, and sports fields.

M. "M" Definitions.

1. "Multifamily residential use" means the use of any developed parcel for any of the following or similar purposes: triplexes, fourplexes, apartments, mobile home parks, hotels, boarding and rooming houses, fraternity and sorority houses, motels, the common areas of condominiums and planned unit developments, and bed and breakfast inns.

N. Reserved for future use.

O. Reserved for future use.

P. "P" Definitions.

1. "Parcel" means the smallest separately segregated lot, unit or plot of real property having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the County Assessor.
2. "Parcel area" means the square footage of a parcel measured or estimated using the outside boundary dimensions in feet in order to obtain the total square footage without regard for any topographic features of the enclosed surface.
3. "Person" means any individual, firm, company, association, society, partnership, corporation, organization, group or public agency.
4. "Public agency" means the United States or any department or agency thereof; the State of California or any department or agency thereof; a city, a county, and any district or other local authority or public body of or within this State.
5. "Public property" means any property owned by a public agency.

6. "Public Works Department" means the Public Works Department for the City of Elk Grove.

Q. Reserved for future use.

R. "R" Definitions.

1. "Residential dwelling unit" means any residential premises designed to house a single family.

S. "S" Definitions.

1. "Single-family residential use" means the use of any developed parcel for any of the following or similar purposes: single-family residences, condominiums and planned unit developments, row houses, halfplexes, duplexes, and mobile homes located on individually owned parcels.

2. "Street" means any public highway, road, street, avenue, way, alley or right-of-way.

T. Reserved for future use.

U. "U" Definitions.

1. "Undeveloped use" means any parcel that has not been altered from its natural state, as evidenced by a complete lack of impervious surface.

2. "Unit service charge (USC)" means the cost of storm drainage services attributable to storm drainage from one (1 ft<sup>2</sup>) square foot of impervious area.

3. "Use code" means the six (6) digit alphanumeric code assigned by the City Assessor's Office to every parcel within the City.

4. "User" means the owner of a parcel of real property that is charged for storm drainage services.

V. Reserved for future use.

W. Reserved for future use.

X. Reserved for future use.

Y. Reserved for future use.

Z. Reserved for future use.

**15.10.020 Levy of charge for storm drainage services.**

A. There is hereby levied by the City of Elk Grove on all parcels within the boundaries of the City of Elk Grove which are within Zone 1 on the map as shown in EGMC Section 15.10.080, and on any other parcels for which the City of Elk Grove has complied with applicable laws governing the levying of such fees, other than those classified as an exempt use, a storm drainage service fee to be collected as set forth in this section.

B. Any parcel classified as a single-family residential use shall pay a monthly charge which shall be calculated as follows:

(the administrative charge) + (USC x 3,500 x each residential dwelling unit) = monthly charge.

C. All parcels other than those parcels classified as an exempt or single-family residential use shall pay a monthly charge that shall be calculated as follows:

(the administrative charge) + (parcel area x USC x IF) = monthly charge.

D. The impervious factors (IF) to be used in the calculations set forth in EGMC Section 15.10.020 (C) shall be based on the following table:

<b>Bill Category</b>	<b>Impervious Factor</b>
Commercial/office	0.80
Industrial	0.70
Multifamily residential	0.60
Institutional	0.50
Low impervious development	0.10

E. The unit service charge (USC) to be used in the calculations set forth in EGMC Sections 15.10.020(B) and 15.10.020(C) shall be Zero and 1583/1,000,000ths (\$0.001583) Dollars per square foot of impervious area.

**15.10.030 Levy of charge in the South Elk Grove storm drainage utility fee area.**

A. In lieu of the fee described in EGMC Section 15.10.020, there is hereby levied by the City of Elk Grove on all parcels which are within Zone 2 on the map shown in EGMC Section 15.10.080, and on any other parcels for which the City of Elk Grove shall have complied with applicable laws governing the levying of such fees, other than those

classified as an exempt use, a storm drainage service fee to be collected as set forth in this section.

B. A single-family residential parcel shall pay a monthly charge equal to the administrative charge + (unit service charge (USC) x each residential dwelling unit).

C. All other nonexempt parcels shall pay a monthly charge equal to the administrative charge + (USC x parcel area in square feet x the impervious factor ÷ number of drainage units per one (1) equivalent residential unit). The number of drainage units per one (1) equivalent residential unit shall be adopted by Resolution of the City Council.

D. The initial amount of the administrative charge (the maximum rate for fiscal year 2004 – 2005) is One and 74/100ths (\$1.74) Dollars.

E. The initial amount of the unit service charge (the maximum rate for Fiscal Year 2004 – 05) shall be Ten and 86/100ths (\$10.86) Dollars. “Unit service charge,” for purposes of this section, means the cost of storm drainage services attributable to storm drainage from one (1) equivalent residential unit.

F. The impervious factors (IF) to be used in the calculations set forth in EGMC Sections 15.10.030(C) shall be based on the following table:

<b>Property Category</b>	<b>Impervious Factor</b>
Commercial/office	0.80
Industrial	0.70
High density residential	0.60
Institutional / medium density residential	0.50
Low impervious development	0.10

For purposes of this section, the terms “high density residential” and “medium density residential” have the meanings specified in Elk Grove Municipal Code Chapter 23.

G. The maximum administrative charge and unit service charge (USC) will be increased annually as of July 1st, commencing July 1, 2005, by the percentage change in the Consumer Price Index (CPI) – All Urban Consumers for the San Francisco – Oakland – San Jose areas.



#### **15.10.040 Reduction of Fee.**

A. The owner of any parcel subject to the storm drainage fee, other than parcels classified as a single-family residential use, may file an application with the City Manager to have the fee levied on such parcel reduced by means of one of the following mechanisms:

1. Designing, constructing and maintaining at the owner's expense storm drainage detention facilities approved by the City Manager;
2. Demonstrating to the satisfaction of the City Manager that less than five (5%) percent of the parcel area drains into a City storm drainage system; or
3. Demonstrating to the satisfaction of the City Manager that the actual impervious area of the parcel is at least ten (10%) percent less than that calculated using the impervious factor for the parcel's use classification.

B. After receipt and review of the application, the City Manager shall either deny any reduction in the fee or approve a reduced fee calculated pursuant to EGMC Section 15.10.040(C). The City Manager, in approving any reduction in the otherwise applicable fee, may attach reasonable conditions to any such approval.

C. Any storm drainage facilities constructed by a parcel owner pursuant to this section shall meet the standards set forth in the City's improvements standards. Upon approval of any reduction in the otherwise applicable fee pursuant to this section, the revised fee shall be calculated on the basis of the equivalent contributing parcel area.

#### **15.10.050 Administration and enforcement.**

The Engineer shall be responsible for the administration and enforcement of the provisions of this chapter. The Engineer shall have the authority to adopt rules and regulations consistent with the provisions of this chapter for purposes of carrying out and enforcing the payment, collection and remittance of the fee herein levied.

#### **15.10.060 Administrative appeal.**

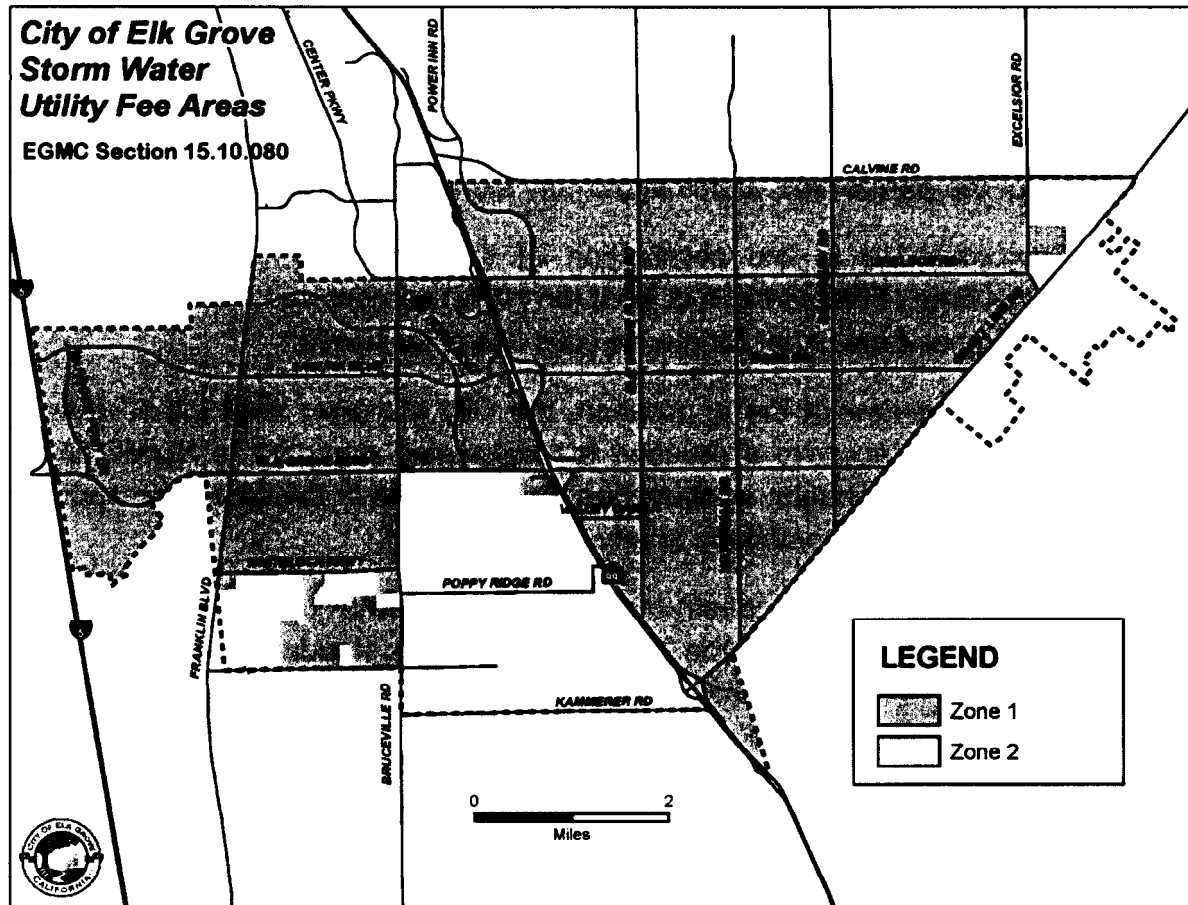
Any owner who disputes the amount of the storm drainage service fee charged to his parcel, the classification of the property in terms of its use, any adjustment proposed by the City Manager, or any other determination affecting the property made by or on behalf of the City pursuant to this chapter may file an appeal pursuant to EGMC Chapter 1.11.

#### **15.10.070 Deposit of collections.**

There is hereby created in the City Treasury a special revenue fund to be known as the "City storm drainage service fee fund." All storm drainage service fee revenue collected by the City shall be deposited in such fund. The revenue deposited in such fund shall be

used only for the acquisition, construction, reconstruction, maintenance, and operation of City storm drainage facilities.

**15.10.080 Map of storm water utility fee areas.**



**Section 4: 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 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 5: 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 6: Savings Clause

The provisions of this Chapter 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 affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full 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 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:** 11-2010  
**INTRODUCED:** May 12, 2010  
**ADOPTED:** May 26, 2010  
**EFFECTIVE:** June 25, 2010

  
SOPHIA SCHERMAN, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

  
JASON LINDGREN, INTERIM CITY CLERK

  
SUSAN COCHRAN, CITY ATTORNEY

Date signed: June 1, 2010

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL ORDINANCE NO. 11-2010**

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

*I, Jason Lindgren, Interim 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 May 12, 2010 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on May 26, 2010 by the following vote:*

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

**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, Interim City Clerk**  
**City of Elk Grove, California**