

ORDINANCE NO. 3-2011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING CHAPTER 16.82 OF THE ELK GROVE MUNICIPAL CODE ESTABLISHING A LAGUNA RIDGE SUPPLEMENTAL PARK FEE (LRSPF)

The City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose.

The purpose of this Ordinance is to amend Chapter 16.82 of the Elk Grove Municipal Code as shown in Section 3 below. This Ordinance is authorized by Article 11, Section 7 of the California Constitution.

Section 2: Findings.

Finding: The proposal to amend Chapter 16.82 of 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 16.82 will create a mechanism to fund planned park improvements within the Laguna Ridge Specific Plan through 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. Thus, it can be seen with certainty that amending Chapter 16.82 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 16.82, reviewed the staff report, and has received public testimony at a duly noticed public meeting regarding the matter. The creation of the fee is specifically intended to help facilitate the development of planned park projects within Laguna Ridge, which will result in positive benefits by providing recreational and open space opportunities for new residential and nonresidential development.

Section 3: Amendment.

Section 16.82.010 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.010 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 park 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 subsections (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 Ridge Park Fee and Supplemental Park 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.

Section 4: Amendment.

Section 16.82.020 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.020 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 (40) 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 of Elk Grove Laguna Ridge park facilities fund" means that special interest-bearing trust fund established pursuant to EGMC Section 16.82.030.

D. "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.

E. "Development fee" means the Laguna Ridge Park Fee and/or Supplemental Park Fee, the fees described by this chapter to be collected upon the approval of building permits within City boundaries.

F. "Facilities" means the facilities financed by the Laguna Ridge Park Fee and Supplemental Park Fee.

G. "Fee resolution" means the resolution adopted by the City Council that adopts, levies, and establishes the amount of the Laguna Ridge Park Fee and Supplemental Park Fee.

H. "Finance Director" means the Finance Director of the City of Elk Grove.

I. "Laguna Ridge area" means, collectively, the Laguna Ridge specific plan area, the Elk Grove Automall, and the Lent Ranch special planning area.

J. "Laguna Ridge park fee program" means the program described in this chapter of levying, collecting, and administering the Laguna Ridge Park Fee and Supplemental Park Fee.

K. "Land use category" means a single-family, multifamily, or nonresidential land use as further defined in the fee resolution.

L. "Nonresidential 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 mobile homes.

M. "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 mobile homes.

Section 5: Amendment.

Section 16.82.030 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.030 Establishment of City of Elk Grove Laguna Ridge park facilities fund.

The Finance Director shall create a special interest-bearing trust fund entitled the City of Elk Grove Laguna Ridge park facilities fund. The development fees collected shall be placed in that fund and shall be expended solely to pay the costs of developing a park within the planned Civic Center and equipment for the Bartholomew Sports Park and to pay the costs of administering the Laguna Ridge Park Fee program.

Section 6: Addition.

Section 16.82.040 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.040 Establishment of City of Elk Grove Laguna Ridge Supplemental Park Fee fund.

The Finance Director shall create a special interest-bearing trust fund entitled the City of Elk Grove Laguna Ridge Supplemental Park Fee fund. The development fees collected shall be placed in that fund and shall be expended solely to pay the costs of developing supplemental park improvements as identified in the City's capital improvement program and to pay the costs of administering the Laguna Ridge Supplemental Park Fee program.

Section 7: Amendment.

Section 16.82.050 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.050 Adoption of Laguna Ridge Park Fee.

The City Council shall adopt, levy, and establish the amount of the Laguna Ridge Park Fee by resolution. The development fee shall be applicable to development within the Laguna Ridge area. The development fee is the successor to the park facilities fee component of the Laguna South public facilities fee and the park, landscape corridor, and the remaining portion of the administrative components to the interim Automall fee program (also referred to as the Laguna Ridge / Poppy Ridge fee program).

Section 8: Amendment.

Section 16.82.060 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.060 Calculation of Laguna Ridge Park Fee.

A. For residential development, the Laguna Ridge 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 nonresidential development, the Laguna Ridge 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 Laguna Ridge Park for land use categories not described in this chapter or the fee resolution, the Finance Director is hereby authorized to determine the land use category that corresponds most directly to the land use. Alternatively, the Finance Director may determine that no land use category corresponds and determine the Laguna Ridge Park Fee.

Section 9: Addition.

Section 16.82.070 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.070 Adoption of Laguna Ridge Supplemental Park Fee.

The City Council shall adopt, levy, and establish the amount of the Laguna Ridge Supplemental Park Fee by resolution. The development fee shall be applicable to development within the Laguna Ridge area with the exception of certain portions of the Elk Grove Automall and the Lent Ranch Special Planning area as identified in the Laguna Ridge Supplemental Park Fee Program Nexus Study.

Section 10: Addition.

Section 16.82.080 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.080 Calculation of Laguna Ridge Supplemental Park Fee.

A. For residential development, the Laguna Ridge Supplemental 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 nonresidential development, the Laguna Ridge Supplemental 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 Laguna Ridge Supplemental Park Fee for land use categories not described in this chapter or the fee resolution, the Finance Director is hereby authorized to determine the land use category that corresponds most directly to the land use. Alternatively, the Finance Director may determine that no land use category corresponds and determine the Laguna Ridge Supplemental Park Fee.

Section 11: Amendment.

Section 16.82.090 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.090 Payment of development fees.

The development fees 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 EGMC Sections 16.82.060 and 16.82.080. The fees shall be both calculated and paid upon the issuance of building permits.

Section 12: Amendment.

Section 16.82.100 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.100 Fee credits and reimbursements.

A. General Provisions. Fee credits and reimbursements will be available for the Laguna Ridge Park Fee and Supplemental Park Fee. The City will determine which parks and facilities will be eligible for developers to construct. Facilities must meet City standards for acquisition projects in order to be eligible for fee credits or reimbursements. All construction contracts, construction work, and requests for reimbursement must be performed in conformance with the most current "Reimbursement Policies and Procedures for Privately Constructed Public Facilities." 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. Timing and Amount of Fee Credits/Reimbursements.

1. Fee credits and reimbursements will only be given to fully completed projects that are identified in the capital improvement plan as a Laguna Ridge Park Fee or Supplemental Park Fee program facility. Developers may only seek fee credits or reimbursements for such projects from the Laguna Ridge Park Fee or Supplemental Park Fee program. In order to obtain fee credits for a single-family project, a developer must enter into a credit agreement with the City. Fee credits will be proportionately allocated to lots within a final subdivision map, not a large lot map. In order to obtain fee credits for a multifamily or nonresidential project, the developer must enter into a credit agreement with the City. Fee credits will be proportionately allocated to units in a multifamily project or proportionately spread over the leasable square footage in a nonresidential project. Large lot maps may be used for credit allocation in multifamily or nonresidential projects with mutual agreement between the developer and the City. If all criteria for receiving a fee credit are met as outlined in the credit agreement, the developer may take the credit against the Laguna Ridge Park Fee or Supplemental Park Fee, as appropriate, at the issuance of a building permit.

2. Developers must enter into a reimbursement agreement with the City prior to construction if they wish to be reimbursed for a facility. The priority of the reimbursement will be determined by the Finance Director, and the reimbursement will only be paid after the City has accepted the developer-funded facility. All reimbursements will be an obligation of the Laguna Ridge Park Fee or Supplemental Park Fee program, as appropriate, and not an obligation of the general fund.

3. Developers will be eligible for fee credits and reimbursements up to, but not exceeding, one hundred (100%) percent of the Laguna Ridge Park Fee or Supplemental Park Fee, as appropriate, excluding any administration costs.

4. The City will reimburse the developer for acquisition or installation of the Laguna Ridge Park Fee or Supplemental Park Fee program improvements based on the lesser of a) the actual construction cost of the eligible facilities, as determined in the sole discretion of the City, through its review of the construction contract, plus an allowance for soft costs associated with the actual construction costs, as determined by the City, and b) the total of allowable costs, based on the cost schedules set forth in the Laguna Ridge Park Fee or Supplemental Park Fee program (without interest), which may escalate each January by the change in the average of the San Francisco and Twenty (20) City Construction Cost Indices as reported in the Engineering News Record for the twelve (12) month period ending October of the prior year.

Section 13: Amendment.

Section 16.82.110 of the Elk Grove Municipal Code is hereby amended to read as follows:

16.82.110 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 Public Works Department improvement standards. Any credits or repayments pursuant to this chapter shall not include the funding, construction or dedications described in this section.

Section 14: 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 15: 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.

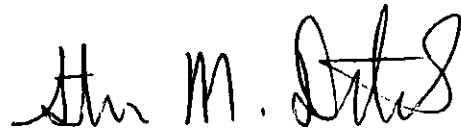
Section 16: Savings Clause.

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 affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect 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 17: Effective Date and Publication.

This Ordinance shall take effect thirty (60) 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: 3-2011
INTRODUCED: January 12, 2011
ADOPTED: January 26, 2011
EFFECTIVE: March 27, 2011



STEVEN M. DETRICK, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: February 3, 2011

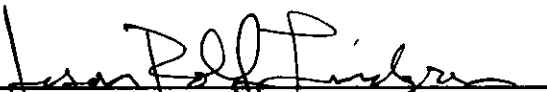
**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 3-2011**

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 January 12, 2011 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 26, 2011 by the following vote:

- AYES :** **COUNCILMEMBERS:** *Detrick, Davis, Hume, Scherman*
- NOES:** **COUNCILMEMBERS:** *None*
- ABSTAIN:** **COUNCILMEMBERS:** *None*
- ABSENT:** **COUNCILMEMBERS:** *Cooper*

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



Jason Lindgren, City Clerk
City of Elk Grove, California