

ORDINANCE NO. 1-2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADDING ELK GROVE MUNICIPAL CODE SECTION 12.01.085 AND AMENDING CHAPTER 12.03 TO TITLE 12 DEFINING DEVELOPMENT PROJECTS THAT ARE SUBJECT TO STREET IMPROVEMENT REQUIREMENTS

WHEREAS, Elk Grove Municipal Code (EGMC) Title 12 currently requires any development project, regardless of scope or size, adjacent to any City street to dedicate property for City right-of-way and construct frontage improvements prior to a building permit being issued; and

WHEREAS, the only relief from this requirement is through a formal appeal to the City Manager; and

WHEREAS, these appeals are difficult to support without findings, especially when there are no negligible direct or cumulative impacts on the City's roadway network; and

WHEREAS, adding EGMC Section 12.01.085 and amending EGMC Chapter 12.03 will clearly and reasonably define which development projects are subject to the street improvement requirements.

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

Section 1: Purpose.

The purpose of this Ordinance is to add Section 12.01.085 and amend Chapter 12.03 to Title 12 of the Elk Grove Municipal Code (EGMC) to clearly and reasonably define which development projects are subject to the street improvement requirements.

Section 2: Addition to Title 12 – Streets and Sidewalks, adding Section 12.01.085.

EGMC Section 12.01.085 titled "New Construction" is hereby added as follows:

12.01.085 New Construction.

For the purpose of this Chapter "new construction" means any building permit that results in the creation of a new residential dwelling unit; or a new commercial or industrial building five thousand (5,000 ft²) square feet or greater; or if the cumulative improved area (e.g., grading, buildings, structures, parking, landscaping, etc.) exceeds twenty-five (25%) percent of the total developable parcel area.

Section 3: Amendment to Title 12 – Streets and Sidewalks, amending Chapter 12.03 Street Improvements.

12.03.020 Requirements.

A. Street improvements shall be required in conjunction with any new construction or major additions to a building or structure on property located adjacent to any City street or on property utilizing any City street for ingress and egress, except that such improvements may be deferred as described in EGMC Section 12.03.050 unless:

1. Street improvements are, in the opinion of the Director, necessary for public safety; or
2. Street improvements would complete the extension of improvements already existing on either side of the subject property.

B. The design, location and specifications of necessary street improvements shall conform to the City of Elk Grove improvement standards and City of Elk Grove standard construction specifications, as adopted by the Director, and as amended from time to time.

C. Right-of-way and/or other necessary property rights shall be dedicated, in a form acceptable to the Director, for all required street improvements prior to the issuance of any building permit for any new construction or major addition to a building or structure. The timing of required dedications shall not be affected by deferral of improvements pursuant to EGMC Section 12.03.050.

12.03.030 Building permits.

No building permit for any new construction or major addition to a building or structure shall be issued until a site plan has been approved by the Director which shows all street improvements required by EGMC Section 12.03.020.

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 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 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 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 effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect 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 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: 1-2012
INTRODUCED: January 25, 2012
ADOPTED: February 8, 2012
EFFECTIVE: March 9, 2012



JAMES COOPER, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:



JASON LINDGREN, CITY CLERK



JONATHAN HOBBS,
INTERIM CITY ATTORNEY

Date signed: February 13, 2012

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 1-2012

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 25, 2012 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 8, 2012 by the following vote:

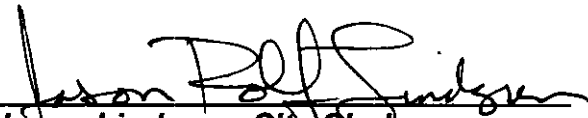
AYES : **COUNCILMEMBERS:** *Cooper, Hume, Davis, Detrick, Scherman*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*

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


Jason Lindgren, City Clerk
City of Elk Grove, California