

ORDINANCE NO. 6-2013

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE TITLE 16 RELATED TO AFFORDABLE
HOUSING FEE FOR NEW NONRESIDENTIAL DEVELOPMENT**

WHEREAS, the proposed amendments will update the affordable housing fee on new nonresidential development in the City of Elk Grove for consistency with California State Law including the title of those charged with the buildings and construction; and

WHEREAS, the proposed amendments are intended to update the affordable housing fees on new nonresidential development, and the implementation thereof; and

WHEREAS, an Affordable Housing Nexus Study (Study) established that a nexus exists between new nonresidential development and the need for affordable housing, and finds that nonresidential development has a deleterious public impact, in that by increasing employment, it also increases the demand for housing for the added employees, and that market-rate housing development will not provide housing affordable for the additional lower-earning employees; and

WHEREAS, the Study identified the cost of creating affordable housing units attributable to new nonresidential development; and

WHEREAS, the Study presented the need and costs of mitigating the housing impacts of new development in the City, and represents a reasonable basis to establish the Fee by identifying the relationship between new nonresidential development, the needed affordable housing to serve that new development, the estimated costs of providing that affordable housing, and the amount of the maximum affordable housing fee for nonresidential development in certain land use categories; and

WHEREAS, the proposed amendments are intended to establish a fee on new nonresidential development for the purpose of contributing to the cost of affordable housing needed as a result of jobs created directly or indirectly by new employers; and

WHEREAS, in order to protect the health, safety, and welfare of the community and ensure that adequate housing for very low-income households and low-income households is provided in the City, establishment of a citywide Affordable Housing Fee, with certain exemptions, is necessary.

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

Section 1. Repeal and Reenactment of Elk Grove Municipal Code Chapter 16.89.

Elk Grove Municipal Code Chapter 16.89 is hereby repealed in its entirety and reenacted to read as follows:

Chapter 16.89
AFFORDABLE HOUSING FEE FOR NEW NONRESIDENTIAL DEVELOPMENT

Sections:

- 16.89.010 Purpose.
- 16.89.020 Definitions.
- 16.89.030 Establishment of City of Elk Grove affordable housing fund.
- 16.89.040 Adoption of affordable housing fee.
- 16.89.050 Calculation of affordable housing fee.
- 16.89.060 Payment of development fees.
- 16.89.070 Compliance with other laws.

16.89.010 Purpose.

- A. The City's General Plan requires that the City plan for adequate housing for all economic segments of its population.
- B. The Affordable Housing Nexus Study ("Study") establishes that a nexus exists between new residential and non-residential development and the need for affordable housing. Further, the Study finds that market-rate residential and non-residential development has a deleterious public impact, in that by increasing employment, it also increases the demand for housing for the added employees, and that market-rate housing development will not provide housing affordable for the additional lower-earning employees.
- C. The purpose of this chapter is to implement the General Plan requirement set forth in subsection (A) 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 affordable housing, the need for which is generated, in part, by new nonresidential development.
- D. The City Council hereby determines that payment of the affordable housing fee will be collected for the purpose of funding affordable housing programs and projects as approved by the City Council or designated body.

16.89.020 Definitions.

- A. "Addition" means construction which adds gross square feet to an existing nonresidential building or structure subject to this chapter.
- B. "Affordable" means having a housing cost of no more than thirty-five (35%) percent of the gross household income, as calculated based on the maximum income for a low-income household or a very low-income household.
- C. "Affordable housing fee program" means the program described in this chapter of levying, collecting, and administering the affordable housing fee.
- D. "Building Official" means the officer or other designated authority charged with the administration and enforcement of this code. The terms "Building Safety and Inspection," "administrative authority," and "City" are to be considered synonymous respectively with the terms "Building Official" and "Building Department" as they appear in this code or the technical codes.
- E. "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.
- F. "City of Elk Grove affordable housing fund" means that special interest-bearing trust fund established pursuant to EGMC Section 16.89.030.
- G. "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.
- H. "Deed-restricted" means a contract or agreement limiting the use and/or resale of the property in such a way that it will continue to provide affordable housing to low-income households or very low-income households for a specified period of time, and to which the City is a party.
- I. "Development fee" means the affordable housing fee, the fees described by this chapter to be collected upon the approval of building permits within City boundaries.
- J. "Fee resolution" means the resolution adopted by the City Council that adopts, levies, and establishes the amount of the affordable housing fee.
- K. "Finance Director" means the Finance Director of the City of Elk Grove.

- L. "Gross square feet" means the floor area of the building or structure comprising the proposed nonresidential construction as determined by the Building Official. The terms "floor area," "building" and "structure" mean the same as defined in the Uniform Building Code as adopted by the City, with the exception that this area does not include parking garages or carports or canopies that do not cover a specific occupancy.
- M. "Housing unit" means a dwelling unit of any tenure, type or price.
- N. "Housing cost" means, in the case of a rental unit, the cost of rent plus any utilities (electric, gas, water, sewer, and/or trash) that the household pays separate from the rent. Housing cost means, in the case of an ownership unit, the cost of principal, interest, property taxes (including assessments), private mortgage insurance, and homeowner's insurance.
- O. "Interior remodel" means construction of a tenant improvement or alteration which results in a change in the land use category of an existing building or structure, or portion thereof, as determined by the Building Official or the Planning Director, and is thereby subject to this chapter.
- P. "Land use category" means a single-family, multifamily, or nonresidential land use as further defined in the fee resolution.
- Q. "Low-income households" means those households with incomes of eighty (80%) percent or below the median income in the City, adjusted for household size, as set forth from time to time by the U.S. Department of Housing and Urban Development or its successor agency. It includes "very low income households."
- R. "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.
- S. "Planning Director" means the Planning Director of the City of Elk Grove Planning Department.
- T. "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.

- U. "Study" means that affordable housing nexus study prepared in 2013, or such similar study that may be conducted from time to time.
- V. "Very low-income households" means those households with incomes of fifty (50%) percent or below the median income in the City, adjusted for household size, as set forth from time to time by the U.S. Department of Housing and Urban Development or its successor agency.

16.89.030 Establishment of City of Elk Grove affordable housing fund.

The Finance Director shall create a special interest-bearing trust fund entitled the City of Elk Grove affordable housing fund. The development fees collected shall be placed in that fund and shall be expended solely to pay the costs associated with the following:

1. Loans or grants in support of the development of new residential housing units affordable to low-income households.
2. Loans or grants in support of the acquisition and rehabilitation of existing residential housing units, when such units will be affordable to low-income households.
3. Loans or grants in support of a homebuyer assistance program that provides gap financing to low-income households purchasing homes in Elk Grove.
4. Administration of the affordable housing fund, including funded projects or programs.
5. Other projects or programs approved by the City Council.

16.89.040 Adoption of affordable housing fee.

The City Council shall adopt, levy, and establish the amount of the affordable housing fee by resolution. The development fee shall be applicable to development within the City.

16.89.050 Calculation of affordable housing fee.

- A. For new nonresidential development, including additions, the affordable housing fee shall be calculated by multiplying the number of new building square feet per land use category by a cost per square foot factor as identified in the fee resolution.
- B. For interior remodels, the affordable housing fee shall be calculated by multiplying the number of building square feet per new land use category by a cost per square foot factor as identified in the fee resolution, less the amount calculated by multiplying the number of building square feet per existing land use category by a cost per square foot factor as identified in the fee resolution. In the event that this calculation results in a negative number, no fee payment shall be required and no credits shall be given.

- C. The following types of development shall not be subject to the nonresidential affordable housing fee:
1. Residential development; and
 2. Land use categories specifically exempted in the fee resolution.
- D. For the purpose of calculating the affordable housing fee for land use categories not described in this chapter or the fee resolution, the Planning Director is hereby authorized to determine the land use category that corresponds most directly to the land use. Alternatively, the Planning Director may determine that no land use category corresponds and determine the affordable housing fee.

16.89.060 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 Section 16.89.050. The fees shall be both calculated and paid upon the issuance of building permits.

16.89.070 Compliance with other laws.

This chapter is intended to establish a method for funding the cost of affordable housing, 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.

Section 2: 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 3: 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.

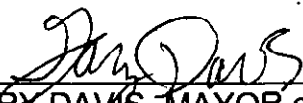
Section 4: Savings Clause

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 5: Effective Date and Publication

This Ordinance shall take effect May 26, 2013. 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 NO: 6-2013
INTRODUCED: March 27, 2013
ADOPTED: April 10, 2013
EFFECTIVE: May 26, 2013




GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: April 18, 2013

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 6-2013

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 March 27, 2013 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on April 10, 2013 by the following vote:

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

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