

RESOLUTION NO. 2024-227

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ADOPTING GUIDING PRINCIPLES FOR IMPLEMENTATION OF SB 937 AND
AUTHORIZING THE CITY MANAGER OR DESIGNEE TO DEVELOP A PROGRAM
AND ASSOCIATED POLICIES CONSISTENT WITH THE REQUIREMENTS OF SB
937, UPDATE PROCESSES, AND TAKE ALL OTHER ACTIONS NECESSARY TO
BE COMPLIANT WITH THE REQUIREMENTS OF SB 937**

WHEREAS, California Government Code Section 66000, et seq., (hereinafter Mitigation Fee Act) regulates development impact fees that are imposed on new development projects; and

WHEREAS, on September 19, 2024, the Governor signed Senate Bill (SB) 937 into law, which amends section 66007 of the California Government Code, changing the timing of when development impact fees for residential projects can be collected to the time of issuance of the certificate of occupancy; and

WHEREAS, compliance with the requirements of SB 937 will require development and implementation of a program and associated policies, updates to current processes, and amendments to numerous sections of the Elk Grove Municipal Code related to development impact fees; and

WHEREAS, the shortness of time between adoption of the legislation and its effective date of January 1, 2025, necessitates the adoption of Guiding Principles to implement the provisions of SB 937 and to avoid potential non-compliance with state law for projects processed in early 2025.

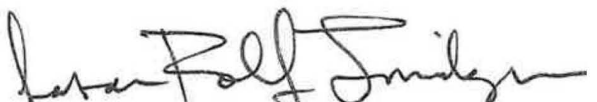
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby adopts the Guiding Principles provided in Exhibit A, attached hereto and incorporated herein by reference, and authorizes the City Manager or designee to develop a program and associated policies consistent with the requirements of SB 937 and the Guiding Principles, update processes, execute any fee deferral agreements, or amendments thereto, for residential and mixed-use projects or any other project for which a fee deferral agreement, or amendment thereto, is necessary or appropriate under SB 937, and execute all documents and take all other actions reasonably necessary to comply with the requirements of SB 937.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 11th day of December 2024



BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

EXHIBIT A

Guiding Principles for Implementation of SB 937

1. The provisions of these Guiding Principles shall apply to fees or charges imposed on residential development for the construction of public improvements or facilities consistent with Senate Bill 937 (“SB 937”). Except as otherwise provided below with respect to mixed-use projects, these Guiding Principles do not apply to non-residential development. The provisions of these Guiding Principles shall apply to any building permit issued on or after January 1, 2025, regardless of the date of application to the City. Recipients of building permits issued prior to January 1, 2025 shall pay all applicable impact fees otherwise due as of the date of permit issuance, except as otherwise required or authorized under applicable law.
2. Except as otherwise provided in these Guiding Principles, a fee deferral agreement shall not be required for the application of SB 937 to a specific development project, and such impact fees subject to deferral under SB 937 shall be deferred consistent with SB 937 and these Guiding Principles, notwithstanding the absence of a fee deferral agreement.
3. For residential development which does not meet the definition of “designated residential development project” as defined in Government Code section 66007(c)(4):
 - a. Development impact fees shall be due prior to the issuance of the Certificate of Occupancy or temporary Certificate of Occupancy, whichever occurs first, for each residential unit. No Certificate of Occupancy or temporary Certificate of Occupancy shall be issued until all applicable development impact fees are paid.
 - b. The amount of the fees to be paid shall be the amount otherwise due, as provided in the City Council-adopted fee schedule along with any applicable index adjustments as provided in the fee’s accompanying nexus study, as of the date of the payment of the fee.
4. For a residential development that meets the definition of “designated residential development project” as provided in Government Code Section 66007(c)(4):
 - a. Development impact fees shall be due prior to the issuance of the Certificate of Occupancy or temporary Certificate of Occupancy, whichever occurs first, for each residential unit. No Certificate of Occupancy or temporary Certificate of Occupancy shall be issued until all applicable development impact fees are paid.
 - b. The amount of the fees to be paid shall be the amount otherwise due, as provided in the City Council-adopted fee schedule along with any applicable index adjustments as provided in the fee’s accompanying nexus study, as of the date of the issuance of the subject building permit for the unit(s) included in that building permit.

5. Notwithstanding paragraphs 3(a) and 4(a) above, the City has determined that the following fees remain due prior to or concurrent with issuance of the subject building permit pursuant to Government Code Sections 66007(b)(1) and 66007(c)(2) as such fees are necessary to reimburse for prior expenses incurred:
 - i. Southeast Policy Area Cost Recovery Fee
 - ii. Southeast Industrial Area Cost Recovery Fee

Notwithstanding the foregoing, the above-referenced fees shall be deferred consistent with SB 937 for projects meeting the requirements of Government Code Sections 66007(b)(2) and 66007(c)(2)(B).

6. Notwithstanding the above, for custom single residential units, the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, shall execute a contract with the City to pay the deferred fees or charges consistent with the timelines set forth in Sections 3 and 4 above. The contract shall be recorded in the official records of the Sacramento County Recorder's Office and shall include a lien for the payment of the fees or charges which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit.
7. Nothing herein shall preclude a developer from paying any applicable development impact fee at a date prior to the Certificate of Occupancy, as applicable.
8. The City will not accept partial payments, or payments for only a portion of the fees due for the subject building permit. The City will only accept a full and complete payment for the unit(s) covered under the applicable building permit.
9. In instances of a mixed-use development, which includes both residential and non-residential development and is approved under a District Development Plan pursuant to Elk Grove Municipal Code section 23.16.080.B.6, the City Manager or designee may execute a fee deferral agreement with the developer of such project, which aligns the due date of development impact fees for the non-residential portions of the project with the due date for the residential development and applies all other applicable provisions of these Guiding Principles to the entirety of the project. Further, these Guiding Principles do not preclude the City Manager from approving a fee deferral agreement for such a project which extends the term for which the development impact fees are due consistent with any other programs, policies, guidelines, and/or procedures for fee deferrals adopted by City Council, and for which, pursuant to the terms of that adopted program, policy, or guidelines, the payment of fees are due subsequent to issuance of the Certificate of Occupancy when surety is provided.

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2024-227

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 resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 11, 2024 by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Robles, Brewer, Spease, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



Jason Lindgren, City Clerk
City of Elk Grove, California