

ORDINANCE NO. 6-2004

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING CHAPTER 16.84 OF THE ELK GROVE MUNICIPAL CODE RELATING
TO A DEVELOPMENT IMPACT FEE FOR CAPITAL FACILITIES**

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

SECTION 1. PURPOSE AND AUTHORITY.

The purpose of this ordinance is to amend Chapter 16.84 of the Elk Grove Municipal Code relating to a development impact fee in the City of Elk Grove (hereinafter the "City") levied to fund a portion of the cost of certain capital facilities by adding new components to the Capital Facilities Fee. The City Council enacts this ordinance pursuant to the authority granted cities by Article XI, Section 7 of the California Constitution.

SECTION 2. FINDINGS.

The City Council finds and determines as follows:

a. As stated in the City's General Plan, the City shall ensure that adequate public facilities are provided to serve new growth and maintain or improve existing levels of service within the City. To finance needed public facilities within the City, the City needs to establish an appropriate development impact fee pursuant to Government Code sections 66000 *et seq.* so that new development in the City pays neither more nor less than its fair share of the cost of providing these public facilities.

b. The basis for establishing the Capital Facilities Fee is identified in the General Plan, and the need for and cost of new public facilities and improvements required by new development in the City is analyzed in the "City of Elk Grove Capital Facilities Fee Nexus Study" prepared by Goodwin Consulting Group, Inc. (the "Nexus Study"). The Nexus Study was made available for public review at least ten (10) days prior to the public hearing on the adoption of the revised Capital Facilities Fee, which was approved by resolution adopted on March 17, 2004.

c. In order to protect the health, safety, and welfare of the community and to ensure that adequate public facilities are provided for the residents of the City of Elk Grove, levying the Capital Facilities Fee is necessary.

SECTION 3. AMENDMENT.

Chapter 16.84 of the Elk Grove Municipal Code is amended to read in its entirety as follows:

CHAPTER 16.84
CITY OF ELK GROVE CAPITAL FACILITIES FEE

Sections:

16.84.010	Purpose
16.84.020	Definitions
16.84.030	Establishment of City of Elk Grove Police Facilities Fund
16.84.040	Establishment of City of Elk Grove Civic Center Facilities Fund
16.84.050	Establishment of City of Elk Grove Railroad Overcrossing Facilities Fund
16.84.060	Establishment of City of Elk Grove Corporation Yard Fund
16.84.070	Establishment of City of Elk Grove Intelligent Transportation System Fund
16.84.080	Establishment of City of Elk Grove Library Facilities Fund
16.84.090	Establishment of City of Elk Grove Transit Fund (Rapid Transit)
16.84.100	Establishment of City of Elk Grove Transit Fund (Bus Facilities)
16.84.110	Establishment of City of Elk Grove Capital Facilities Fee Program Administration Fund.
16.84.120	Adoption of Capital Facilities Fee
16.84.130	Capital Facilities Fee Components
16.84.140	Calculation of Capital Facilities Fee Components
16.84.150	Payment of Development Fees
16.84.160	Fee Credits and Reimbursements
16.84.170	Compliance with Other Laws

16.84.010 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.

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 subdivisions (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 Capital Facilities 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.

16.84.020 DEFINITIONS.

- a. "Administrative Services Director" means the Director of Administrative Services for the City of Elk Grove.
- 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. "Capital Facilities Fee Program" means the program described in this Chapter of levying, collecting, and administering of the Capital Facilities Fee.
- d. "City" means the City of Elk Grove.
- e. "City of Elk Grove Police Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.030.
- f. "City of Elk Grove Civic Center Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.040.
- g. "City of Elk Grove Railroad Overcrossing Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.050.
- h. "City of Elk Grove Corporation Yard Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.060.
- i. "City of Elk Grove Intelligent Transportation System Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.070.
- j. "City of Elk Grove Library Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.080.
- k. "City of Elk Grove Transit Facilities (Rapid Transit) Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.090.
- l. "City of Elk Grove Transit Facilities (Bus Facilities) Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.100.
- m. "City of Elk Grove Capital Facilities Fee Administration Fund" means that special interest-bearing trust fund established pursuant to Section 16.84.110.

- n. "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.
- o. "Council" means the City Council of the City of Elk Grove.
- p. "Department" means the City of Elk Grove Public Works Department.
- q. "Development Fee" or "CFF" means the Capital Facilities Fee, the fee described by this Chapter to be collected upon the approval of building permits within City boundaries.
- r. "Engineer" means the City Engineer of the City of Elk Grove.
- s. "Facilities" means the facilities financed by the Capital Facilities Fee.
- t. "Fee Resolution" means the resolution adopted by the City Council that adopts, levies, and establishes the amount of the CFF.
- u. "Land use category" means a single family, multi-family, or non-residential land use as further defined in the Fee Resolution.
- v. "Non-Residential 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 mobilehomes.
- w. "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 mobilehomes.

16.84.030 ESTABLISHMENT OF CITY OF ELK GROVE POLICE FACILITIES FUND.

There is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the City of Elk Grove Police Facilities Fund. That component of the CFF that is collected for police facilities as described in this Chapter shall be placed in said fund and shall be expended by the City of Elk Grove solely to pay the costs of police facilities and equipment.

16.84.040 ESTABLISHMENT OF CITY OF ELK GROVE CIVIC CENTER FACILITIES FUND.

There is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the City of Elk Grove Civic Center Facilities Fund. That

component of the CFF that is collected for civic center facilities as described in this Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of new civic center buildings, furnishings, equipment, and related financing costs.

16.84.050 ESTABLISHMENT OF CITY OF ELK GROVE RAILROAD OVERCROSSING FACILITIES FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Railroad Overcrossing Facilities Fund. That component of the CFF that is collected for railroad overcrossing facilities as described in this Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of railroad overcrossing facilities.

16.84.060 ESTABLISHMENT OF CITY OF ELK GROVE CORPORATION YARD FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Corporation Yard Fund. That component of the CFF that is collected for corporation yard facilities pursuant to this Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of a new corporation yard.

16.84.070 ESTABLISHMENT OF CITY OF ELK GROVE INTELLIGENT TRANSPORTATION SYSTEM FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Intelligent Transportation System Fund. That component of the CFF that is collected for the intelligent transportation system as described in this Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of the new intelligent transportation system.

16.84.080 ESTABLISHMENT OF CITY OF ELK GROVE LIBRARY FACILITIES FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Library Facilities Fund. That component of the CFF that is collected for library facilities pursuant to this Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of library facilities.

16.84.090 ESTABLISHMENT OF CITY OF ELK GROVE TRANSIT FACILITIES (RAPID TRANSIT) FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Transit Facilities (Rapid Transit) Fund. The component of the CFF that is collected for rapid transit facilities as described in this

Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of rapid transit facilities or bus facilities.

16.84.100 ESTABLISHMENT OF CITY OF ELK GROVE TRANSIT FACILITIES (BUS FACILITIES) FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Transit Facilities (Bus Facilities) Fund. That component of the CFF that is collected for bus facilities as described in this Chapter shall be placed in said fund and shall be expended by the City, or its successor agency, solely to pay the costs of bus facilities or rapid transit facilities.

16.84.110 ESTABLISHMENT OF CITY OF ELK GROVE CAPITAL FACILITIES FEE PROGRAM ADMINISTRATION FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove Citywide Facilities Fee Program Administration Costs Fund. That component of the CFF that is collected for administrative costs as described in this Chapter shall be deposited in said fund and shall be expended by the City solely to pay the costs of administering the Capital Facilities Fee Program.

16.84.120 ADOPTION OF CAPITAL FACILITIES FEE.

The City Council shall adopt, levy, and establish the amount of the CFF by resolution.

16.84.130 CAPITAL FACILITIES FEE COMPONENTS.

The Capital Facilities Fee comprises components for the following uses:

- (1) Police facilities;
- (2) Civic Center facilities;
- (3) Railroad overcrossing facilities;
- (4) Corporation yard;
- (5) Intelligent Transportation System;
- (6) Library facilities;
- (7) Transit facilities (rapid transit);
- (8) Transit facilities (bus facilities);
- (9) Program administrative costs.

16.84.140 CALCULATION OF CAPITAL FACILITIES FEE COMPONENTS.

- a. For Residential Development, the components of the CFF 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 Non-Residential Development, the components of the CFF 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 a gas station, the railroad overcrossing and intelligent transportation system components of the CFF shall be calculated by multiplying the number of vehicle fueling positions by a cost per fueling position factor as identified in the Fee Resolution.
- d. For a hotel or motel, the railroad overcrossing and intelligent transportation system components of the CFF shall be calculated by multiplying the number of guest rooms by a cost per room factor as identified in the Fee Resolution.
- e. For the purpose of calculating the CFF for land use categories not described in this Chapter or the Fee Resolution, the Administrative Services Director is hereby authorized to determine the land use category, which corresponds most directly to the land use. Alternatively, the Administrative Services Director, in conjunction with the City Engineer, may determine that no land use category corresponds and determine the CFF.
- f. In January of each calendar year, the amounts of the fee components of the CFF shall be automatically adjusted by the average of the change in the San Francisco Construction Cost Index (CCI) and the change in the 20-city CCI as reported in the Engineering News Record for the 12 month period ending October of the prior year.

16.84.150 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 Section 16.84.140. The fees shall be both calculated and paid upon the issuance of building permits.

16.84.160 FEE CREDITS AND REIMBURSEMENTS.

1. General Provisions

Fee credits and reimbursements will be available as part of the Capital Facilities Fee Program. 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.

2. Timing and Amount of Fee Credits/Reimbursements

a. Fee credits and reimbursements will only be given to fully completed projects that are identified in the Capital Improvement Plan as a Capital Facilities Fee Program facility. Developers may only seek fee credits or reimbursements for such projects from the Capital Facilities 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 multi-family or non-residential project, the developer must enter into a credit agreement with the City. Fee credits will be proportionately allocated to units in a multi-family project or proportionately spread over the leasable square footage in a non-residential project. Large lot maps may be used for credit allocation in multi-family or non-residential 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 Capital Facilities Fee at the issuance of a building permit.

b. 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 Administrative Services 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 Capital Facilities Fee Program and not an obligation of the General Fund.

c. Developers will be eligible for fee credits and reimbursements up to, but not exceeding, 100% of the Capital Facilities Fee, excluding any administration costs.

d. The City will reimburse the developer for acquisition or installation of the Capital Facilities Fee Program improvements based on the lesser of, (i) 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, or (ii) the total of allowable costs, based on the cost schedules set forth in the Capital Facilities Fee Program (without interest), which may escalate each January by the change in the average of the San Francisco and 20-city Construction Cost Indexes as reported in the Engineering News Record for the twelve month period ending October of the prior year.

16.84.170 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

Department of Public Works Improvement Standards. Any credits or repayments pursuant to this Chapter shall not include the funding, construction or dedications described in this section.

SECTION 4. IN-LIEU LEVY.

The payment and administration of that component of the CFF that is levied for library facilities as described in this Chapter will be in lieu of all other library fees paid and administered pursuant to sections 16.82.030 and 16.82.120 of Chapter 16.82, Title 16 of the Elk Grove Municipal Code; sections 16.83.050 and 16.83.140 of Chapter 16.83, Title 16 of the Elk Grove Municipal Code; sections 16.86.010, 16.86.020, 16.86.040, and 16.86.100, of Chapter 16.86 Title 16, of the Elk Grove Municipal Code.

The payment and administration of those components of the CFF levied for transit facilities as described in this Chapter will be in lieu of all other transit fees paid and administered pursuant to sections 16.82.080 and 16.82.120 as they relate to zones 4 and 7 of Chapter 16.82 of the Elk Grove Municipal Code; sections 16.83.020(n), 16.83.060, and 16.83.140 of Chapter 16.83 of the Elk Grove Municipal Code; sections 16.87.060, 16.87.090, 16.87.110, and 16.87.115 of the Elk Grove Municipal Code.

SECTION 5. 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 15 days after its passage, a summary of the ordinance may be published at least five 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 Government Code section 36933(c)(1).

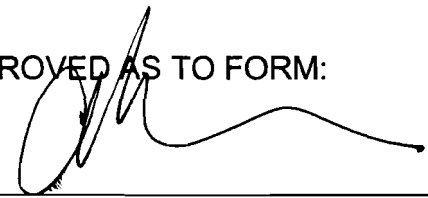
PASSED AND ADOPTED by the City Council of the City of Elk Grove this 7th day of April 2004.


SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:


PEGGY E. JACKSON, CITY CLERK


ANTHONY B. MANZANETTI,
CITY ATTORNEY

Effective Date: May 7, 2004

AYES: Scherman, Soares, Briggs, Cooper, Leary
NOES: None
ABSTAIN: None
ABSENT: None