

## ORDINANCE NO. 01-2022

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTERS 16.95 AND 16.120 TO ESTABLISH THE SOUTHEAST INDUSTRIAL AREA COST RECOVERY FEE PURSUANT TO REQUIREMENTS OF THE MITIGATION FEE ACT (NO FURTHER CEQA REVIEW REQUIRED)

**WHEREAS**, the City of Elk Grove has prepared a Sphere of Influence Amendment and subsequent Annexation of land south of Grant Line Road at the intersection with Waterman Road for an industrial business park, known as the Southeast Industrial Area (SEIA, or Project); and

**WHEREAS**, a variety of planning tasks have been involved in preparation of the Sphere of Influence Amendment and Annexation; and

**WHEREAS**, on January 27, 2021, the City Council certified a Supplemental Environmental Impact Report and adopted a General Plan Amendment, Specific Plan, and Pre-zoning for the Project; and

**WHEREAS**, the City has expended \$1,227,944.74 in completing this work; and

**WHEREAS**, the City has prepared a Nexus Study documenting these costs and the allocation of these costs on a per-gross-acre basis for land in the Project area; and

**WHEREAS**, the City desires to recover these costs through a fee on new development within the Project area.

**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 amend Elk Grove Municipal Code Chapters 16.95 and 16.120 to establish the Southeast Industrial Area Cost Recovery Fee to recover the City's expenses related to the creation of the Southeast Industrial Area.

#### Section 2: Findings

##### **California Environmental Quality Act (CEQA)**

Finding: No further environmental review is required pursuant to State CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations).

Evidence: The proposed fee and accompanying fee will reimburse the City for its expenses relative to the Southeast Industrial Area. The Project includes amendment of the City's Sphere of Influence, Annexation, master plan preparation, and environmental review. Completion of these steps occurred after preparation and certification of an Environmental Impact Report and Supplemental Environmental Impact Report (SCH No. 2015102067) (EIR). None of the provisions of Section 15162, which specifies when a subsequent EIR is required, are applicable as there are no changes to the project, no changes to the circumstances under which the project was undertaken, and there is no new information of substantial importance. Therefore, this action is exempt and no further environmental review is required under CEQA.

## **General Plan**

Finding: The proposed fee is consistent with General Plan.

Evidence: The proposed fee is for the recovery of City expenses in the creation of the Southeast Industrial Area. There are no changes to the development densities or intensities identified in the General Plan or zoning. Therefore, the proposed action is consistent.

## **AB 1600 Findings**

Finding #1: There is a purpose to the fee.

Evidence: The Southeast Industrial Area Cost Recovery Fee (Fee) will be imposed upon development projects within the Southeast Industrial Area for the purpose of mitigating costs incurred by the City for amendment of the City's Sphere of Influence, annexation of the area, master plan preparation, and environmental review.

Finding #2: There is a use to which the fee is to be put.

Evidence: Revenue from the Cost Recovery Fee will be used to reimburse the City for its costs in the creation of the Southeast Industrial Area. These included an amendment to the City's Sphere of Influence, annexation of the Southeast Industrial Area, master plan preparation, and environmental review. A breakdown of the costs associated with each activity can be found in the table entitled "SEIA Planning Cost by Task and Phase" on Page 7 of the Southeast Industrial Area Cost Recovery Nexus Study.

Finding #3: There is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

Evidence: Development of land within the Project area will benefit from the City's efforts, including the establishment of zoning, completion of the necessary review under the California Environmental Quality Act (CEQA), including the Water Supply Assessment, traffic analysis, water, sewer, and drainage master planning, annexation of the area into the service territory of Sacramento Area Sewer District and Sacramento Regional County Sanitation District, annexation in the City of Elk Grove, and other plan implementation efforts, as discussed in detail in the Planning Costs section of the Nexus Study. This benefit exists because development was not possible prior to Annexation because the County of Sacramento had designated the area for agricultural purposes. Further, the availability of urban infrastructure (e.g., water, sewer) and sizing and routing of on-site infrastructure within the Project area was not known prior to the City completing this work. Future development projects within the Project area shall utilize this information when planning and constructing projects. Having this information available streamlines the development planning and review process and provides certainty in development review. Revenues will be used to reimburse the City for its costs in these efforts.

Finding #4: There is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

Evidence: Development in the Project area requires the establishment of appropriate zoning, consistent with the City's General Plan, infrastructure master planning, the completion of CEQA review, and other actions necessary to consider subsequent requests for subdivision, design review, and site improvements. The City's efforts to complete this planning and engineering work allows for the more efficient and legally sufficient review of these subsequent applications.

Finding #5: There is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

Evidence: A reasonable relationship between the amount of the Fee and the Project costs is established in this Nexus Study. The Fee is calculated based upon the City's costs to date in its efforts, which are attributable to the Project area and future development. Costs are allocated on a shared basis to the gross acreage of development within the Project area, attributable to the level of benefit received within the respective Zones. All properties pay a proportional share of the costs for the Sphere of Influence Amendment (SOIA), which included development of the SOIA application and accompanying EIR, as well as other related processing costs. Additionally, all properties benefit from the infrastructure master plans and Supplemental EIR as these efforts support comprehensive master planning of the Project area. Only those properties within the Phase 1 Annexation Area benefit from the annexation and, therefore share those costs only among themselves. Thus, there is a Zone 1 that includes the annexed properties, and a Zone 2 that excludes the annexed properties.

### Section 3: Action

*EGMC Section 16.95.022 is amended as follows (additions shows in underline, deletions shown in strikeout):*

#### **16.95.022 Fees established by this chapter.**

From time to time the City Council may, by resolution, adopt new development impact fees, update existing development impact fees, or repeal or replace existing development impact fees. Development impact fees authorized by this chapter include, but are not limited to, the following:

- A. City roadway impact fee;
- B. Capital facilities fee;
- C. Southeast Policy Area cost recovery fee (for projects within the Southeast Policy Area);
- D. Southeast Policy Area and Laguna Ridge Specific Plan Phase 3 drainage fee (for projects within the Southeast Policy Area);
- E. Southeast Policy Area park and trail fee (for projects within the Southeast Policy Area);<sub>i</sub>
- F. Southeast Industrial Area cost recovery fee (for projects within the Southeast Industrial Area).

#### Section 4: Action

*EGMC Section 16.120.030 is amended as follows (additions shown in underline, deletions shown in strikeout):*

##### **16.120.030 Applicable fee programs.**

Notwithstanding any other provision of this code, upon application and approval of a fee deferral agreement pursuant to EGMC Section 16.120.050, an approved development project may defer payment of the following impact fees pursuant to the provisions of this chapter:

- A. Capital facilities fee;
- B. Affordable housing fee;
- C. Citywide roadway fee;
- D. I-5 Subregional Corridor fee (should the applicant choose not to pay this voluntary fee it shall negotiate with Caltrans to pay a different fee or to put in infrastructure to mitigate impacts);
- E. Citywide fire development fee. Notwithstanding any other provision of this chapter, a deferral of fire development impact fees shall be subject to the approval of the Cosumnes Community Services District;
- F. Southeast Policy Area cost recovery fee (for projects within the Southeast Policy Area);
- G. Southeast Policy Area and Laguna Ridge Specific Plan Phase 3 drainage fee (for projects within the Southeast Policy Area); and
- H. Southeast Policy Area park and trail fee (for projects within the Southeast Policy Area).
- I. Southeast Industrial Area cost recovery fee (for projects within the Southeast Industrial Area).

#### Section 5: 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 6: 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 7: 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 8: Effective Date and Publication

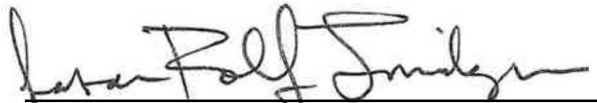
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code section 36933(c)(1).

**ORDINANCE:**           **01-2022**  
**INTRODUCED:**       January 12, 2022  
**ADOPTED:**           January 26, 2022  
**EFFECTIVE:**         February 25, 2022




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

ATTEST:

  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:

  
JONATHAN P. HOBBS,  
CITY ATTORNEY

Date signed: January 28, 2022

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL ORDINANCE NO. 01-2022**

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, 2022, 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, 2022, by the following vote:***

**AYES:           COUNCILMEMBERS: Singh-Allen, Suen, Hume, Nguyen, Spease**

**NOES:           COUNCILMEMBERS: None**

**ABSTAIN:       COUNCILMEMBERS: None**

**ABSENT:        COUNCILMEMBERS: None**

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

  
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**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**