

**ORDINANCE NO. 15-2005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADDING CHAPTER 16.81 TO THE ELK GROVE MUNICIPAL CODE RELATING TO DEVELOPMENT IMPACT FEES IN THE EAST FRANKLIN SPECIFIC PLAN AREA**

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 add Chapter 16.81 to the Elk Grove Municipal Code relating to development impact fees in the East Franklin Specific Plan area. The fees for park, landscape corridor and supplemental drainage facilities were previously components of the Laguna South Public 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 East Franklin Facilities Fee is identified in the General Plan, and the need for and cost of park, landscape corridor, and supplemental drainage facilities required by new development in the East Franklin Specific Plan area is analyzed in the "City of Elk Grove Laguna South Public Facilities Fee Program Nexus Study" dated May 10, 2001, prepared by Economic and Planning Systems, Inc.; the "East Franklin Park Fee Update Nexus Study," dated March 11, 2005, prepared by Goodwin Consulting Group, Inc.; and the "East Franklin Landscape Corridor and Supplemental Drainage Fee Program Nexus Study," dated April 7, 2005, prepared by Economic and Planning Systems, Inc.

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 East Franklin Facilities Fee is necessary.

**Section 3. Addition.**

Chapter 16.81 is added to the Elk Grove Municipal Code, to read in its entirety as follows:

## CHAPTER 16.81

### CITY OF ELK GROVE EAST FRANKLIN FACILITIES FEE

#### Sections:

- 16.81.010 Purpose
- 16.81.020 Definitions
- 16.81.030 Establishment of City of Elk Grove East Franklin Park Facilities Fund
- 16.81.040 Establishment of City of Elk Grove East Franklin Landscape Corridor Facilities Fund
- 16.81.050 Establishment of City of Elk Grove East Franklin Supplemental Drainage Facilities Fund
- 16.81.060 Establishment of City of Elk Grove East Franklin Facilities Fee Program Administration Fund.
- 16.81.070 Adoption of East Franklin Facilities Fee
- 16.81.080 East Franklin Facilities Fee Components
- 16.81.090 Calculation of East Franklin Facilities Fee Components
- 16.81.100 Payment of Development Fees
- 16.81.110 Fee Credits and Reimbursements
- 16.81.120 Compliance with Other Laws

#### **16.81.010 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 East Franklin 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.

#### **16.81.020 DEFINITIONS.**

- a. "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.

- b. "City" means the City of Elk Grove.
- c. "City of Elk Grove East Franklin Park Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.81.030.
- d. "City of Elk Grove East Franklin Landscape Corridor Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.81.040.
- e. "City of Elk Grove East Franklin Supplemental Drainage Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.81.050.
- f. "City of Elk Grove East Franklin Facilities Fee Administration Fund" means that special interest-bearing trust fund established pursuant to Section 16.81.060.
- 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. "Council" means the City Council of the City of Elk Grove.
- i. "Department" means the City of Elk Grove Public Works Department.
- j. "Development Fee" means the East Franklin Facilities Fee, the fee described by this Chapter to be collected upon the approval of building permits within the East Franklin Specific Plan area.
- k. "East Franklin Facilities Fee Program" means the program described in this Chapter of levying, collecting, and administering of the East Franklin Facilities Fee.
- l. "Engineer" means the City Engineer of the City of Elk Grove.
- m. "Facilities" means the facilities financed by the East Franklin Facilities Fee.
- n. "Fee Resolution" means the resolution adopted by the City Council that adopts, levies, and establishes the amount of the Development Fee.
- o. "Finance Director" means the Finance Director for the City of Elk Grove.
- p. "Land use category" means a single family, multi-family, or non-residential land use as further defined in the Fee Resolution.
- q. "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.

- r. "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.

**16.81.030 ESTABLISHMENT OF CITY OF ELK GROVE EAST FRANKLIN PARK FACILITIES FUND.**

The City Treasurer shall create a special interest-bearing trust fund entitled the City of Elk Grove East Franklin Park Facilities Fund. That component of the Development Fee that is collected for park facilities as described in this Chapter shall be placed in said fund and shall be administered by the City solely to pay the costs of park facilities.

**16.81.040 ESTABLISHMENT OF CITY OF ELK GROVE EAST FRANKLIN LANDSCAPE CORRIDOR FACILITIES FUND.**

The City Treasurer shall create a special interest-bearing trust fund entitled the City of Elk Grove East Franklin Landscape Corridor Facilities Fund. That component of the Development Fee that is collected for landscape corridor 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 landscaping of roadway, railroad, interceptor, and drainage corridors.

**16.81.050 ESTABLISHMENT OF CITY OF ELK GROVE EAST FRANKLIN SUPPLEMENTAL DRAINAGE FACILITIES FUND.**

The City Treasurer shall create a special interest-bearing trust fund entitled the City of Elk Grove East Franklin Supplemental Drainage Facilities Fund. That component of the Development Fee that is collected for supplemental drainage 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 land acquisition and supplemental construction costs for drainage channel facilities.

**16.81.060 ESTABLISHMENT OF CITY OF ELK GROVE EAST FRANKLIN FACILITIES FEE PROGRAM ADMINISTRATION FUND.**

The City Treasurer shall create a special interest-bearing trust fund entitled the City of Elk Grove East Franklin Facilities Fee Program Administration Costs Fund. That component of the Development Fee 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 East Franklin Facilities Fee Program.

#### **16.81.070 ADOPTION OF EAST FRANKLIN FACILITIES FEE.**

The City Council shall adopt, levy, and establish the amount of each component of the Development Fee by resolution. The Development Fee shall be applicable to development within the East Franklin Specific Plan area. The Development Fee is the successor to the East Franklin Facilities Benefit Area park, landscape corridor, and supplemental drainage facilities fee components of the Laguna South Public Facilities Fee.

#### **16.81.080 EAST FRANKLIN FACILITIES FEE COMPONENTS.**

The East Franklin Facilities Fee comprises components for the following uses:

- (1) Park facilities;
- (2) Landscape corridor facilities;
- (3) Supplemental drainage facilities;
- (4) Program administrative costs.

#### **16.81.090 CALCULATION OF EAST FRANKLIN FACILITIES FEE COMPONENTS.**

- a. For Residential Development, the components of the Development Fee 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 Development Fee 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 the purpose of calculating the Development Fee for land use categories not described in this Chapter or the Fee Resolution, the Finance Director is hereby authorized to determine the land use category, which corresponds most directly to the land use. Alternatively, the Finance Director, in conjunction with the City Engineer, may determine that no land use category corresponds and determine the Development Fee.
- d. In January of each calendar year, the amounts of the fee components of the Development Fee 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.

### **16.81.100 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 16.81.090. The fees shall be both calculated and paid upon the issuance of building permits.

### **16.81.110 FEE CREDITS AND REIMBURSEMENTS.**

a. General Provisions. Fee credits and reimbursements will be available for each East Franklin Facilities Fee component administered by the City. 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.

b. Timing and Amount of Fee Credits/Reimbursements

i. Fee credits and reimbursements will only be given to fully completed projects that are identified in the Capital Improvement Plan as an East Franklin Facilities Fee Program facility. Developers may only seek fee credits or reimbursements for such projects from the East Franklin 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.

ii. Developers must enter into a reimbursement agreement with the City if they wish to be reimbursed for a facility. The priority of the reimbursement will be determined by the Finance 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 East Franklin Facilities Fee Program and not an obligation of the General Fund.

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

iv. The City will reimburse the developer for acquisition or installation of the East Franklin 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, and (ii) the total of allowable costs, based on the cost schedules set forth in the East Franklin 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.

c. Park Fee Component Fee Credit/Reimbursement Provisions. Fee credits and reimbursements will be available with respect to the park fee component in accordance with any fee credit and reimbursement agreement.

### **16.81.120 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. Any credits or repayments pursuant to this Chapter shall not include the funding, construction or dedications described in this section.

#### **Section 3: 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 4: 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 5. Effective Date and Publication.**

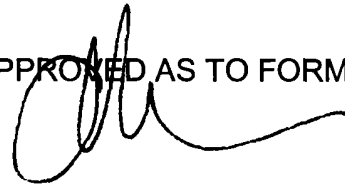
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified 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 11th day of May, 2005.

  
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DANIEL BRIGGS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
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PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:  
  
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ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**Effective Date: June 10, 2005**

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