

**RESOLUTION NO. 2004-223**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
SUPERSEDING RESOLUTION 2002-171, IMPOSING AFFORDABLE HOUSING  
FEES, AND PROVIDING DIRECTION ON THE COLLECTION, USE, AND  
ADMINISTRATION OF THE AFFORDABLE HOUSING FEES**

**WHEREAS**, the City of Elk Grove (hereinafter also referred to as “City”) City Council approved Resolution 2002-171 imposing an Affordable Housing Fee (hereinafter also referred to as “Fee”) for all residential development in the City, with certain exemptions; and

**WHEREAS**, Resolution 2002-171 is considered deficient in establishing certain necessary components of an Affordable Housing Fee, including specifying all eligible uses of the fee, identifying residential development exempt from the fee, including an annual inflationary adjustment, and specifying an administrative component; and

**WHEREAS**; Resolution 2002-171 imposing an Affordable Housing Fee must be repealed in order to adopt a new resolution correcting the deficiencies of Resolution 2002-171; and

**WHEREAS**, the City adopted the Elk Grove General Plan on November 19, 2003 (hereinafter “General Plan”); and

**WHEREAS**, the City is required by State Housing Law to identify adequate sites for its housing needs and to provide policies and programs that facilitate the development of affordable housing; and

**WHEREAS**, Policy H-4 Action 1 of the Housing Element identifies that the City will assign Affordable Housing Fees and other subsidies to housing projects affordable to very low and low income households; and

**WHEREAS**, Policy H-7 Action 1 of the Housing Element identifies that the City will establish homeownership programs for low and moderate income households; and

**WHEREAS**, Policy H-8 Action 1 of the Housing Element requires all affordable development subsidized or required by the City to contain provisions that assure long-term affordability mechanisms (e.g., 45 years or more); and

**WHEREAS**, the Sacramento Area Council of Governments (SACOG) assigns fair-share numbers to the City of Elk Grove for new residential construction affordable to very low, low, moderate, and above moderate income levels through the Regional Housing Needs Allocation (hereinafter also referred to as “RHNA”) process; and

**WHEREAS;** the City has caused to be prepared a Housing Nexus Study that identified a nexus between the development of market rate housing and the demand for affordable housing units; and

**WHEREAS;** the City has caused to be prepared a Housing Fee Impact Analysis that identified the cost of creating an affordable housing units; and

**WHEREAS;** the creation of an Affordable Housing Fee is not a “project” subject to the California Environmental Quality Act because it is a funding mechanism having no physical effect on the environment; and

**WHEREAS;** in order to protect the health, safety and welfare for the community and to ensure that adequate housing for very low and low income households is provided in the City of Elk Grove, establishment of a citywide Affordable Housing Fee to be imposed upon all residential development that does not provide housing consistent with the City’s RHNA is necessary; and

**WHEREAS,** Resolution 2002-171 lacked clarification of the administrative component and eligible uses of an Affordable Housing Fee and thus must be repealed so that this resolution may clearly establish 1) the types of residential units that will be subject to the fee, 2) an administrative component of the fee program, 3) an annual inflationary adjustment of the fee, 4) residential uses that will be exempt from the fee, and 5) eligible uses of the fee.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELK GROVE HEREBY RESOLVES AS FOLLOWS:**

1. Findings:

- a. New residential development in the City that does not provide for housing opportunities for all income levels consistent with the City’s RHNA (regional fair share allocation) reduces the City’s ability to meet these needs in the future.
- b. The City’s projected need for affordable housing exceeds its current mix of housing; consequently, development of additional residential projects with the same affordability mix as currently exists in the City, or similar thereto, will exacerbate this problem by reducing the City’s ability to meet these current and future needs.
- c. In order to ensure that all future residential development pays its proportional share for very low and low income household new construction needs, the imposition of an Affordable Housing Fee is necessary.
- d. Adequate funding is necessary to ensure that housing opportunities exist for very low and low income households. In order to ensure sufficient funds to facilitate construction of very low and low income housing units during the RHNA planning period, the City must be able to collect affordable housing fees from new residential development.

- e. Any delay in securing adequate funding will result in a deterioration of the City's ability to provide sufficient housing opportunities in the future and creates an immediate harm.
2. Repeal of Resolution 2002-171. Resolution 2002-171 imposing affordable housing fees is hereby repealed.
  3. Approval of Fees. The Affordable Housing Fees applicable to new market-rate residential development in the City, as set forth in Exhibit "A" attached hereto, are hereby approved.
  4. Collection, Use and Administration of Fees. The Affordable Housing Fee shall be collected, used, and administered as described in items (a) through (f) below.
    - a. The Affordable Housing Fee shall be paid by the property owner to the City at the time of the issuance of a building permit.
    - b. An annual inflationary fee adjustment is necessary to keep pace with inflation. In January of each calendar year, commencing on January 1, 2005, the Affordable Housing Fee for each type of residential development in each fee category will automatically be 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 twelve month period ending October of the previous year.
    - c. Monies collected through the Affordable Housing Fee are limited to the following uses: 1) hard and soft costs associated with the development of new residential construction that is created as housing affordable to lower income households, 2) a homebuyer assistance program for lower income households, limited to assisting with the purchase of units constructed during the RHNA planning period, and 3) administrative expenses as established in item "h" below.
    - d. The establishment of a proportion of fee acquired set-aside for administrative expenses is necessary. Three (3) percent of the total Affordable Housing Fee collected is reserved for administrative expenses. Administrative expenses include but are not limited to costs associated with: making of grants and loans to developers of low income housing, developing guidelines for programs assisted with this fee, implementing and monitoring assistance provided through this fee, marketing programs and assistance provided through this fee, accounting for the fee revenues, and updating the fee program.
    - e. New residential construction providing affordable housing units consistent with the production standard of the Sacramento Regional Housing Compact for Production of Affordable Housing, which the City entered into on May 19, 2004, shall receive funding priority.

f. The following shall be exempted for payment of the Affordable Housing Fee. All determinations regarding the exemptions provided in this section shall be made by the Planning Director or his/her designee in conjunction with the City Administrative Services Director or his/her designee.

I. New residential units that will be affordable to very low and low income households, granny units that do not have a full kitchen, units restricted to persons with a disability, units restricted to farmworkers, and units established for transitional or emergency/homeless housing will be exempt from the fee.

II. New residential development with a minimum of 10 percent of total units affordable to households as follows: at least four (4) percent of total units affordable to very low income households (households with annual incomes at or below 50 percent of area median income [AMI]), at least four (4) percent of total units affordable to low income households (households with annual incomes at or below 80 percent of AMI), and up to two (2) percent of total units affordable to moderate income households (households with annual incomes from 80 to 120 percent of AMI) with affordability of the units maintained through a regulatory agreement, deed restriction, or other document acceptable to the Planning Director.

III. Replacement/Reconstruction:

i. Any replacement or reconstruction (no change in use) of any residential unit that is damaged or destroyed as a result of fire, flood, explosion, wind, earthquake, riot, or other calamity, or act of God shall be exempt for the Affordable Housing Fee.

Note:

If the residential unit(s) replaced or reconstructed exceeds the documented total number of units of the damaged/destroyed residential structure, the excess units are subject to the Affordable Housing Fee.

If the residential structure was vacant for more than one (1) year prior to its damage or destruction, this exemption does not apply.

IV. Additions/Alterations/Modifications/Temporary Facilities

i. Additions to single family residential structures provided no change in use occur, and no second full kitchen is added.

ii. Additions to multi-family residential structures that are not part of mixed use type project provided no change occurs, and no additional units result.

- iii. Supporting use square footage in multi-family projects, such as the office and recreational areas required to directly serve the multi-family project. The residential unit fee will provide the full mitigation required on multi-family projects.
- iv. Non-habitable residential structures such as decks, pools, pool cabanas, sheds, garages, etc.
- v. Mobile or manufactured homes with no permanent foundation to be occupied on a temporary basis.

5. Effective Date. Pursuant to California Government Code Sections 66016 through 66018.5 and the findings found in Section 1 above, this resolution shall take effect immediately.

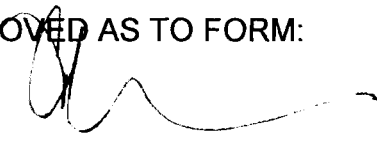
PASSED AND ADOPTED by the City Council of the City of Elk Grove on the 1<sup>st</sup> day of September 2004.

*for*  RICK SOARES  
 SOPHIA SCHERMAN, MAYOR of the  
 CITY OF ELK GROVE

ATTEST:

  
 \_\_\_\_\_  
 PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 ANTHONY B. MANZANETTI,  
 CITY ATTORNEY

**EXHIBIT A**

**AFFORDABLE HOUSING FEE SCHEDULE**

The affordable housing fee schedule shall be collected from new residential development, on a per unit basis, according to the following schedule:

Single Family Residential Unit (less than three units – includes duplexes) **\$3,685.00**

Multi-family Residential Unit (more than three units) **\$1,837.00**

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL RESOLUTION NO. 2004-223**

**STATE OF CALIFORNIA            )**  
**COUNTY OF SACRAMENTO        )**     **ss**  
**CITY OF ELK GROVE             )**

***I, Peggy E. Jackson, 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 the 1<sup>st</sup> day of September 2004 by the following vote:***

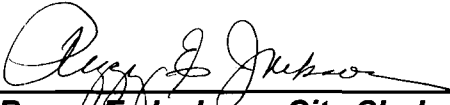
**AYES 3:     COUNCILMEMBERS: Soares, Cooper, Leary**

**NOES 0:     COUNCILMEMBERS:**

**ABSTAIN 0: COUNCILMEMBERS:**

**ABSENT 2: COUNCILMEMBERS: Scherman, Briggs**



  
**Peggy E. Jackson, City Clerk**  
**City of Elk Grove, California**