

**RESOLUTION NO. 2008-203**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
REPEALING AND REPLACING FEES FOR  
ADMINISTRATIVE APPEAL HEARINGS IN THE CITY OF ELK GROVE**

**WHEREAS**, on November 3, 2004, the City Council of the City of Elk Grove duly adopted Ordinance 31-2004, establishing an administrative appeal procedure, codified in Chapter 1.11 of the Elk Grove Municipal Code; and

**WHEREAS**, the City Council also adopted Resolution No. 2005-118 establishing procedures for, and a \$1,000 fee to recover the costs of, conducting such administrative appeal hearings; and

**WHEREAS**, the City Council revised the administrative appeal procedures by Ordinance No. 43-2008, adopted September 10, 2008, amending Chapter 1.11 of the Elk Grove Municipal Code; and

**WHEREAS**, by this Resolution, the City of Elk Grove wishes to revise the fees for conducting administrative appeal hearings in the City of Elk Grove by repealing the previously adopted resolution and replacing it with the provisions set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Elk Grove, that the procedures and fees set forth in Resolution 2005-118 are hereby repealed and replaced with the following:

Section 1. Purpose. Hearings before an Appeals Hearing Officer will be conducted in accordance with Chapter 1.11 of Title 1 of the Elk Grove Municipal Code and this Resolution, except as otherwise provided by the Elk Grove Municipal Code or by state or federal law. Fees for appeals shall be in accordance with this Resolution. The fees established in this chapter shall be in addition to criminal, civil or any other legally established procedures that may be pursued to address violations of this Code.

Section 2. Waiver. Failure of any person to file an appeal in accordance with the provisions of this Resolution and Chapter 1.11 of the Elk Grove Municipal Code shall constitute a waiver of that person's rights to contest the merits of the citation and the imposition of the administrative fee.

Section 3. Fees for Appeal. The administrative appeal fee shall be in an amount equal to the fine amount set forth in the administrative citation for each administrative decision that an appellant requests to appeal.

Section 4. Fee Deferrals and Waivers for Appeals.

(a). Generally. The City Manager, or his/her designee, may grant a fee deferral or fee waiver of the appeal fee pursuant to this section. Any request for a fee deferral or fee waiver shall be made at the time of the filing of the Request for Appeal. If

a request for fee deferral or fee waiver is filed, no fee shall be collected until a determination is made on the fee deferral or fee waiver.

The Request for Appeal will be deemed filed on the day it is submitted to the City Clerk, unless the fee deferral or fee waiver is denied and the fee is not paid. All applicable dates or time periods for hearing the appeal shall be tolled until the City Manager, or his/her designee, grants or denies the deferral or waiver. If the fee deferral or waiver is denied, appellant shall pay the appeal fee within fifteen (15) days of denial, and if not paid, the appeal shall be dismissed. The party seeking the fee deferral or waiver must be the real party in interest of the appeal.

(b). Fee Deferral (Low Income). If the appellant declares under penalty of perjury and provides sufficient documentation demonstrating that the appellant's income does not exceed eighty percent (80%) of median income applicable to Sacramento County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development, then the City Manager or his/her designee shall grant an appeal fee deferral to the appellant.

If a fee deferral is granted based upon the criteria specified above, the appellant shall pay twenty-five percent (25%) of the appeal fee at the time the deferral is granted and the remaining seventy-five percent (75%) of the fee after the hearing, pursuant to a payment schedule established by the City Manager.

(c). Fee Waiver (Very Low Income). If the appellant declares under penalty of perjury and provides sufficient documentation demonstrating that the appellant's income does not exceed fifty percent (50%) of median income applicable to Sacramento County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development, then the City Manager or his/her designee shall grant an appeal fee waiver to the appellant.

(d). Documentation Supporting Deferral/Waiver. In support of any appeal fee deferral or waiver, an appellant shall furnish such financial information as the City Manager or his/her designee deems reasonably necessary to make a decision on the fee deferral or fee waiver. Among other documentation, the appellant may submit evidence demonstrating that appellant is receiving benefits pursuant to: (1) the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200 through 12205.2 of the Welfare and Institutions Code), (2) the Aid to Families with Dependent Children (AFDC) program (42 United States Code 601 through 644), (3) the Food Stamp program (7 United States Code 2011 through 2027), (4) Section 17000 of the Welfare and Institutions Code, or (5) if the appellant declares under penalty of perjury that his/her/its monthly income is one hundred twenty-five percent (125%) or less of the current monthly poverty threshold annually established by the Community Services Administration pursuant to Section 625 of the Economic Opportunity Act of 1964, as amended.

(e). Effect of City Manager Decision. The City Manager's or his/her designee's determination on a fee deferral or fee waiver shall be final and there shall be no administrative appeal from the decision.

Section 5. Effective Date. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove on this 27<sup>th</sup> day of August, 2008.

  
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GARY DAVIS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
\_\_\_\_\_  
SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:

  
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SUSAN COCHRAN, CITY ATTORNEY

**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2008-203**

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

***I, Susan J. Blackston, 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 August 27, 2008 by the following vote:***

**AYES :            COUNCILMEMBERS:        Davis, Hume, Scherman, Cooper, Leary**

**NOES:            COUNCILMEMBERS:        None**

**ABSTAIN :        COUNCILMEMBERS:        None**

**ABSENT:         COUNCILMEMBERS:        None**

  

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**Susan J. Blackston, City Clerk**  
**City of Elk Grove, California**