

ORDINANCE NO. 11-2003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING THE ELK GROVE MUNICIPAL CODE CHAPTER 22.40 BY ADDING SECTION 22.40.041 CONCERNING PARKLAND DEDICATION AND FEES IN THE EAST FRANKLIN SPECIFIC PLAN AREA

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

Section 1: Purpose and Authority

The purpose of this Ordinance is to amend the City of Elk Grove Municipal Code to provide for the calculation of in-lieu parkland dedication fees and to establish the purchase price for parkland.

Section 2: Findings

In adopting this Ordinance, the City Council makes the following findings:

1. On April 16, 2003, the City Council held a public hearing on the proposed amendment to the Municipal Code, at which time public testimony was taken and duly considered.
2. The adoption of this amendment to the Municipal Code is consistent with the goals, policies, and implementation programs specified in the City's General Plan.

Section 3: Amendments

The City Council hereby amends Chapter 22.40 of the Elk Grove Municipal Code by adding Section 22.40.041 to read as follows:

SECTION 22.40.041

Calculation of In-Lieu Parkland Dedication fees—
East Franklin Specific Plan Area

SECTION 22.40.041 CALCULATION OF IN-LIEU PARKLAND FEES--EAST FRANKLIN SPECIFIC PLAN AREA

- (a) In the formula, $A \times V = M$ set forth in section 22.40.040, "V" (value) will not be established by the Office of the County Assessor, but is initially established at \$125,000 per acre as part of the Public Facilities Financing Plan for the East Franklin Specific Plan Area. This is the value that all property owners in the East Franklin Specific Plan Area must accept as total compensation from the Elk Grove Community Services District ("the District") for the transfer of title to parkland in excess of the acreage otherwise required to be dedicated by this Chapter 22.40.

- (b) The dollar value of "V" is subject to adjustment anytime the East Franklin Public Facilities Financing Plan is being reviewed by the City of Elk Grove and must be reviewed at least every three years at the written request of the District or any property owner whose property is located within the boundaries of the East Franklin Specific Plan Area. At each review a new appraised or agreed upon Fair Market Value will be established for "V" by resolution adopted by the City Council following a noticed, public hearing. If at the time the adjustment is being considered there are 25% or less of the EDU's approved for the East Franklin Specific Plan the City Council in establishing a new value for "V" may deviate from the appraised or agreed upon value if the City Council finds that the resulting in-lieu Park Dedication Fee would prohibitively high and thereby jeopardize the build out of the planning area.
- (c) When a property owner in the East Franklin Specific Plan Area has been required to convey title to parkland acreage in excess of the acreage required to be dedicated by Chapter 22.40 of the City's Code, the property owner must accept and shall be compensated for such over dedicated parkland at the per acre value established pursuant to sections 22.40.041 (a) and (b). If the District, has insufficient In-Lieu Parkland Dedication Fees collected from within the boundaries of the East Franklin Specific Plan Area to pay the full purchase price, or should those funds already be committed as hereinafter defined in subsection (f), the property owner must accept a non-interest bearing promissory note from the District. Subject to the "Priorities" described in subsection (f), payments would be due semi annually, but only from the uncommitted funds available in the In-Lieu Parkland Dedication Fee Account established for the East Franklin Specific Plan Area.
- (d) When "V" is re-examined pursuant to section 22.40.041(b) and there is an outstanding balance owed on a promissory note or notes after disbursement of all the funds in the In-Lieu Parkland Dedication Fee Account established for the East Franklin Specific Plan Area **and**:
- (i) The new per acre dollar value of "V" is less than the dollar value of "V" when the note or notes were issued, then a "Supplemental In-Lieu Parkland Dedication Fee" will be established at the same time the new dollar value of "V" is adopted; said fee to be paid at the time a final subdivision map or a development plan for a multi-family project is presented to the City of Elk Grove for approval. The Supplemental In-Lieu Parkland Dedication Fee will equal the total amount of the "Shortfall", as hereinafter defined in subsection (f), allocated to all unmapped lots and zoned multi-family property located within the boundaries of the East Franklin Specific Plan Area as they exist at the time the new dollar value of "V" is established and will be paid on each future lot or multi-family unit in addition to the In-Lieu Parkland Dedication Fee or Parkland Dedication otherwise due in accordance with this Chapter 22.40, **OR**

- (ii) The new per acre dollar value of "V" is more than the dollar value of "V" when the existing note or notes were issued, then an "In-Lieu Parkland Dedication Fee Credit" will be established at the same time the new dollar value of "V" is adopted; by allocating the "Surplus", as hereinafter defined in subsection (f), to all unmapped lots and zoned multi-family property located within the boundaries of the East Franklin Specific Plan Area as they exist at the time the new dollar value is established for "V". This Credit will be applied or reimbursed at the time a final subdivision map or a development plan for a multi-family project is presented to the City of Elk Grove for approval. A property owner dedicating parkland would receive the credit as a cash payment. If at the time of the Parkland Dedication there is insufficient or otherwise committed funds available in the In-Lieu Park Dedication Fee Account for the East Franklin Specific Plan, the property owner must accept a non-interest bearing promissory note from the District. Subject to the priorities described in subsection (f), payments would be due semi annually, but only from the uncommitted funds available in the In-Lieu Parkland Dedication Fee established for the East Franklin Specific Plan Area.
- (e) When "V" is reevaluated pursuant to section 22.40.041(b) and designated parkland within the East Franklin Specific Plan has not been available for acquisition resulting in the accumulation of funds in the In-Lieu Parkland Dedication Fee Account;
 - (i) Based upon a dollar value of "V" which is less than the new established dollar value of "V"; a "Shortfall", as hereinafter defined in subsection (f), will result, requiring a "Supplemental In-Lieu Parkland Dedication Fee" be established at the same time the new dollar value of "V" is adopted; said fee to be paid at the time a final subdivision map or a development plan for a multi-family project is presented to the City or Elk Grove for approval. The Supplemental In-Lieu Parkland Dedication Fees will equal the total amount of the "Shortfall" allocated to all unmapped lots and zoned multi-family property located within the boundaries of the East Franklin Specific Plan Area as they exist at the time the new dollar value of "V" is established, and will be paid on each future lot or multi-family unit in addition to the In-Lieu Parkland Dedication Fee or Parkland Dedication otherwise due in accordance with this Chapter 22.40; **OR**
 - (ii) Based upon dollar value of "V" which is more than the new established dollar value of "V", then an "In-Lieu Parkland Dedications Fee Credit" will be established at the same time the new dollar value of "V" is adopted; by allocating the "Surplus", as hereinafter defined in subsection (f), to all unmapped lots and zoned multi-family property located within the boundaries of the East Franklin Specific Plan Area as they exist at the time the new dollar value is established for "V". This Credit will be applied or reimbursed at the time a final subdivision map or a development plan for a multi-family project is presented to the City of Elk Grove for approval.

A property owner dedicating parkland would receive the credit as a cash payment. If at the time of the Parkland Dedication there is insufficient or otherwise committed funds available in the In-Lieu Park Dedication Fee Account for the East Franklin Specific Plan, the property owner must accept a non-interest bearing promissory note from the District. Subject to the priorities described in subsection (f), payments would be due semi annually, but only from the uncommitted funds available in the In-Lieu Parkland Dedication Fee Account established for the East Franklin Specific Plan Area.

(f) Definitions:

- (1) The "Priority" of all payments to be made by the District shall be established by the date of the promissory note. Notes first issued shall be paid in full before any payments are due to subsequent note holders. The District is obligated to make payments on any notes issued pursuant to this Section 22.40.041 only from the proceeds in the In-Lieu Parkland Dedication Fee Account established for the East Franklin Specific Plan Area and from no other funds of the District.
- (2) The "Shortfall" is defined as either (i) the difference between the value of the number of acres represented by the unpaid balance owed on the promissory note or notes and the value of these acres at the new lower dollar value for "V"; or (ii) the difference between the value of the number of acres represented by the accumulated In-Lieu Parkland Dedication Fee and the value of these acres at the new higher dollar value for "V".
- (3) The "Surplus" is defined as either (i) the difference between the value of the number of acres represented by the unpaid balance owed on the promissory note or notes and the value of these acres at the new lower dollar value for "V"; or (ii) the difference between the value of the number of acres represented by the accumulated In-Lieu Parkland Dedication Fee and the value of these acres at the new higher dollar value for "V".

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

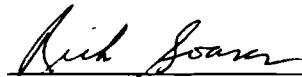
If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision, or application, and to this end, the provisions of 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: Effective Date and Publication

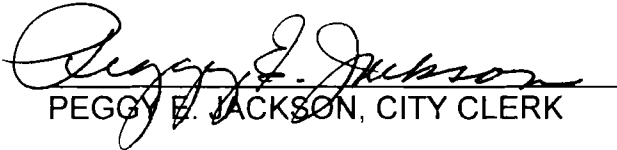
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified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

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 21st day of May 2003.



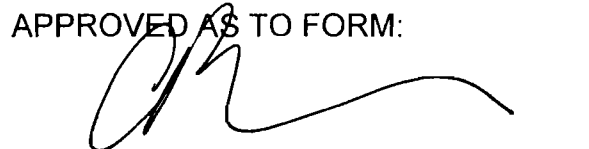
RICK SOARES, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

Effective Date June 20, 2003

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