

ORDINANCE NO. 43-2003

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING CHAPTER 16.89 OF THE CITY OF ELK GROVE MUNICIPAL CODE RELATING TO DEVELOPMENT IMPACT FEES FOR ROADWAY FACILITIES

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

SECTION 1. PURPOSE.

The purpose of this ordinance is to amend Chapter 16.89 of the Elk Grove Municipal Code, adopted September 3, 2003, relating to the establishment of development impact fees in the City of Elk Grove (hereinafter "City") for roadway facilities and redesignate it as Chapter 16.95. The City Council enacts this ordinance pursuant to the authority granted cities by Article XI, Section 7 of the California Constitution.

SECTION 2. FINDINGS.

- a. The General Plan of the City of Elk Grove (hereinafter "General Plan") includes a description of the general location, capacity, and types of public facilities planned to accommodate development anticipated to occur in the City.
- b. As stated in the 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 in the City, the City needs to establish an appropriate schedule of development impact fees in accordance with Government Code sections 66000 *et seq.* so that new development in the City pays no more nor less than its fair share of the cost of providing these public facilities.
- c. The basis for establishment of the facilities fees authorized by this Ordinance is identified in the General Plan, and the need for and cost of the new public facilities and improvements required by new development in the City to be funded by those fees has been analyzed by the City's staff and consultants.
- d. The facilities fees established by this Ordinance and the planned improvements detailed in the capital improvement program for the Roadway Fee Program are consistent with the Elk Grove General Plan.
- e. New development in the City places increasing demands on existing City roadways. By 2020, the City's population is projected to increase by more than 115% from its July 2000 level.
- f. The City's current roadway capacity will need to be expanded as the City's population increases. In addition, a lack of adequate roadway capacity

represents a major traffic concern and safety issue. As the City continues to grow, demand on roads will increase. Based on this expected increase, the City will need to construct new and expand existing roads to ease traffic congestion and improve public safety.

g. Based upon the following together with the above findings, and, in order to protect the public's health, welfare, and safety, the City Council finds there is an urgent need that this Ordinance be effective immediately upon its enactment and to declare any fee resolution effective immediately upon adoption:

- (1) Development occurring and anticipated to occur within the City will result in an increased demand for public infrastructure and facilities which over-extend the City's ability to adequately protect the public health, welfare, and safety within the City.
- (2) The City inherited a road fee program that if not updated immediately would put the City behind in its quest to implement the transportation model desired by the City to meet the needs of its citizens and future development. This program is needed to establish roadway fees at adequate levels. Any delay in securing adequate funding will result in a deterioration of the City's level of services and will threaten the City's ability to keep pace with development demand and will create an immediate harm.
- (3) The facilities funded by this fee program protect the public health, welfare, and safety of the persons residing, working, or visiting the City and protect businesses within the City.
- (4) The City Council finds that the imposition of interim fees as an urgency measure is required for the immediate preservation of the public health, safety, and welfare.
- (5) Funding for the public infrastructure necessitated by new development must come from new development in order for it to bear its fair share of such facilities, which was a goal of the City's incorporation.
- (6) Aside from development impact fees, there are limited sources available to finance public infrastructure. Development impact fees are an appropriate source of funding for new development's fair share of the costs of required infrastructure. Allowing new development to proceed without adequate funding for public infrastructure would degrade City services and/or drain other City resources.
- (7) It is necessary for and in the interests of the public health, safety, and welfare that this Ordinance be effective immediately upon its

adoption in order to provide the public infrastructure needed by new development, as well as to achieve a degree of certainty to allow for the orderly development in the City. Such certainty should also allow for greater efficiency on the part of City staff processing and evaluating development applications, thereby making best use of the limited resources of the City government in addressing the needs of its citizens.

- (8) The extremely high volume of past, existing, and anticipated building permit applications, tract map activity, inquiries by developers and development in the City indicate an immediate need to assure increased public infrastructure in the City and to provide certainty in the amount and implementation of the development impact fees that will affect property within the City.
 - (9) If this Ordinance and any fee resolution were not effective immediately upon adoption, developers desiring to develop their property and the City may have to resort to voluntary agreements requiring the payment of fees at such time as this Ordinance and any such fee resolution become effective, which agreements would be inefficient to administer, cause complications with lenders and title companies, and raise enforcement and other problems detrimental to the public interest and the conduct of City business.
- h. Amendment of certain provisions in Chapter 16.89 of Elk Grove City Code is necessary on an urgency basis in order to properly implement the interim and permanent roadway fees.
- i. Pursuant to the California Public Resources Code Section 21080 b(8), the establishment of these development impact fees is statutorily exempt from the application of the California Environmental Quality Act, because these fees are for the purpose of obtaining funds for capital projects necessary to maintain and improve roadway service within City boundaries.

SECTION 3. AMENDMENT. Chapter 16.89 of the Elk Grove City Code, adopted September 3, 2003, relating to the establishment of development impact fees for roadway facilities is redesignated as Chapter 16.95 and is amended to read as follows:

CHAPTER 16.95

ESTABLISHMENT OF DEVELOPMENT IMPACT FEES TO FINANCE THE COST OF ROADWAY FACILITIES

Sections:

16.95.010	Purpose
16.95.020	Definitions
16.95.030	Establishment of City of Elk Grove Roadway Fund
16.95.040	Reserved
16.95.050	Payment of Development Fees
16.95.060	Adoption of Schedule of Roadway Fees
16.95.070	Establishment of Development Fee
16.95.080	Calculation of Roadway Fee
16.95.090	Credit/Reimbursement for Construction of Public Facilities
16.95.100	Compliance With Other Laws
16.95.110	Other Roadway Fee Program not Affected

16.95.010 PURPOSE

a. The City of Elk Grove 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 policies for supporting funding of public facilities.

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 development fees via a Roadway Fee Program to fund the cost of certain roadway facilities.

16.95.020 DEFINITIONS

a. "Administrative Services Director" means the Director of Administrative Services for the City of Elk Grove.

b. "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.

c. "City" means the City of Elk Grove.

- d. "City of Elk Grove Roadway Fund" means that special interest-bearing trust fund established pursuant to Section 16.95.030.
- e. "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.
- f. "Council" means the City Council of the City of Elk Grove.
- g. "Department" means the City of Elk Grove Public Works Department.
- h. "Development Fee" or "Roadway Fee" means the City Roadway Fee, the fee levied by this Chapter upon the approval of building permits within City boundaries.
- i. "Engineer" means the City Engineer of the City of Elk Grove..
- j. "Facilities" means the roadway facilities financed by the Roadway Fee.
- k. "Fee Resolution" means the resolution adopted by the City Council that establishes the amount of the Roadway Fee.
- l. "Land use category" means a single family, multi-family, or commercial use as further defined in the Fee Resolution.
- m. "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, tri-plexes, quadplexes, townhomes, condominiums, apartments, manufactured homes, mobilehomes, gas stations, and hotels/motels.
- n. "Permanent Roadway Fee Effective Date" means the date upon which the Roadway Fee becomes effective other than on an interim basis
- o. "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, tri-plexes, quadplexes, townhomes, condominiums, apartments, manufactured homes and mobilehomes.

16.95.030 ESTABLISHMENT OF CITY OF ELK GROVE ROADWAY FUND

There is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the City of Elk Grove Roadway Fund. All roadway development fees collected pursuant to this Chapter shall be placed in said fund and shall be expended by the City of Elk Grove solely to pay the costs of roadway facilities,

interest for borrowed money, formulation and updating the Roadway Fee Program, and the administration of the Roadway Fee Program.

16.95.040 RESERVED

16.95.050 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 calculated pursuant to Sections 16.95.080. The fees shall be both calculated and paid upon the issuance of building permits.

16.95.060 ADOPTION OF SCHEDULE OF ROADWAY FEES

The City Council shall establish the amount of the Roadway Fee by resolution.

16.95.070 ESTABLISHMENT OF DEVELOPMENT FEE

A development fee is hereby established for the purpose of funding roadway facilities, interest on borrowed money, formulating and updating the Roadway Fee Program, and the costs of administering the Roadway Fee Program.

16.95.080 CALCULATION OF ROADWAY FEE

- a. For Residential Development, the Roadway Fee shall be calculated by multiplying the number of units per land use category by a dwelling unit equivalent factor as identified in the Roadway Fee Program.
- b. For Non-Residential Development, the Roadway Fee shall be calculated by multiplying the number of building square feet per land use category by a dwelling unit equivalent factor as identified in the Roadway Fee Program.
- c. For a gas station, the Roadway Fee shall be calculated by multiplying the number of vehicle fueling positions by a dwelling unit equivalent factor as identified in the Roadway Fee Program.
- d. For a hotel or motel, the Roadway Fee shall be calculated by multiplying the number of guest rooms by a dwelling unit equivalent factor as identified in the Roadway Fee Program.
- e. For the purpose of calculating the Roadway Fee for land use categories not included in the Roadway Fee Program, the Administrative Services Director is hereby authorized to determine the land use category, which corresponds most directly to the land use. Alternatively, the Administrative Services Director, in conjunction with the City Engineer, may determine that no land use category corresponds and determine the Roadway Fee. Said Roadway Fee will be determined using the applicable trip generation factors as found in the Institute of Transportation Engineers Trip Generation manual.

- f. In January of each calendar year, the Roadway Fee shall be automatically adjusted by the average of the change in the San Francisco Construction Cost Index and the 20-city Construction Cost Index as reported in the Engineering News Record for the 12 month period ending October 31 of the prior year.

16.95.090 CREDIT/REIMBURSEMENT FOR CONSTRUCTION OF PUBLIC FACILITIES

1. General Provisions

a. Fee credits and reimbursements will be available as part of the Roadway Fee Program. 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.

2. Timing and Amount of Fee Credits/Reimbursements

a. Fee credits and reimbursements will only be given to fully completed projects that are identified in the Capital Improvement Plan as a Roadway Fee Program facility. Developers may only seek fee credits or reimbursements for such projects from the Roadway 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 Roadway Fee at the issuance of a building permit.

b. Developers must enter into a reimbursement agreement with the City (prior to construction) if they wish to be reimbursed for a facility. The priority of the reimbursement will be determined by the Administrative Services 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 Roadway Fee Program and not an obligation of the General Fund.

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

d. The City will reimburse the developer for acquisition or installation of the Roadway 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, or (ii) the total of allowable costs, based on the cost schedules set forth in the Roadway Fee Program (without interest).

e. In January of each calendar year, the Roadway Fee shall be automatically adjusted by the average of the change in the San Francisco Construction Cost Index and the 20-city Construction Cost Index as reported in the Engineering News Record for the 12 month period ending October 31 of the prior year.

16.95.100 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 area, 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 area pursuant to state and local laws. In particular, individual property owners shall remain obligated to fund, construct, and/or dedicate the improvements, public facilities and other exactions required by, but not limited to: The City of Elk Grove Department of Public Works Improvement Standards. Any credits or repayments pursuant to this Chapter shall not include the funding, construction or dedications described in this section.

16.95.110 OTHER ROADWAY FEE PROGRAM NOT AFFECTED

The Roadway Fee established pursuant to this Chapter does not apply to those areas within the City that are subject to the fees established pursuant to Chapter 16.85, Title 16 of the Elk Grove Municipal Code, which Chapter shall not be affected by the adoption of this Chapter 16.95.

SECTION 4. ORDINANCE 36-2003 SUPERCEDED.

The provisions of this ordinance supercede those of Ordinance 36-2003 that relate to Chapter 16.89 and the implementation of the Roadway Fee. The provisions of Ordinance 36-2003 relating to Section 16.83.160 of Chapter 16.83, Title 16 of the Elk Grove Municipal Code are not affected by this ordinance.

SECTION 5. IN LIEU LEVY.

The payment and administration of Roadway Fees levied pursuant to this Chapter will be in lieu of all other roadway fees paid and administered pursuant to sections 16.82.070, 16.82.071, 16.82.120 of Chapter 16.82, Title 16 of the Elk Grove Municipal Code; sections 16.83.020(m) and 16.83.140 of Chapter 16.83, Title 16 of the

Elk Grove Municipal Code; sections 16.87.090, 16.87.100, 16.87.115, of Chapter 16.87 Title 16, of the Elk Grove Municipal Code.

SECTION 6. EFFECTIVE DATE – URGENCY ORDINANCE.

This ordinance shall take effect immediately as an urgency ordinance. New construction in the City continues to increase resulting in an increasing burden on existing City services. So that the City has sufficient funding to maintain adequate City service, the City must ensure that it begins receiving revenue from this new construction as soon as possible. For these reasons and the findings found in Section 2 above, the City Council finds that the immediate passage of this ordinance is necessary for the immediate preservation of the public health and safety and the fiscal integrity of the City.

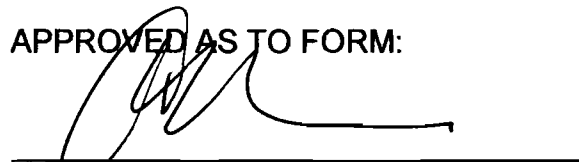
PASSED AND ADOPTED by the City Council of the City of Elk Grove this 1st day of December 2003.


SOPHIA SCHERMAN, MAYOR OF THE
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI
CITY ATTORNEY

Effective Date: December 1, 2003

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