

RESOLUTION NO. 2014-209

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ESTABLISHING 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 adopted Ordinance No. 31-2004, establishing an administrative appeal procedure, codified in Chapter 1.11 of the Elk Grove Municipal Code; and

WHEREAS, on April 27, 2005, the City Council adopted Resolution No. 2005-118 establishing an administrative procedure for conducting appeals and a \$1,000 appeal fee to recover the costs of conducting such administrative appeal hearings; and

WHEREAS, in 2008, the City Council revised the administrative appeal procedures and fees by Ordinance No. 43-2008 and Resolution No. 2008-203, resulting in amendments to Chapter 1.11 of the Elk Grove Municipal Code, and a revision to the appeal fee structure; and

WHEREAS, by this Resolution, the City of Elk Grove wishes to establish fees for conducting administrative appeal hearings related to the appeals of Notice of Public Nuisance and Order to Abate (Notice and Order), Notice to Abate Abandoned Vehicle forms (Notice to Abate (Vehicle)), Abatement Cost Reports, and any other matter subject to appeal under Chapter 1.11 for which a fee is not otherwise expressly provided.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove that the procedures and fees set forth in Resolution 2008-203, are hereby repealed in their entirety and replaced with the following: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 expressly provided by the Elk Grove Municipal Code, or state or federal law. Fees for appeals of Notice and Orders (EGMC 16.18.1200), Notices to Abate (Vehicles) (EGMC 6.18.200), Abatement Cost Reports (EGMC 16.18.1500), and any other staff determination subject to an administrative appeal in accordance with EGMC 1.11.010 shall be in accordance with this Resolution. The fees established by this Resolution shall be in addition to any other criminal, civil or other legally established fine, penalty, or remedy available to address violations of local, state, or federal law.

Section 2. Waiver. Failure of any person to timely 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 a Notice and Order, Notices to Abate (Vehicles), Abatement Cost Reports, or other staff determination subject to an administrative appeal, as well as the imposition of the associated fee(s), if any.

Section 3. Fees for Administrative Appeal. The administrative appeal fee for each Notice and Order, Notice to Abate (Vehicle), Abatement Cost Report, or other staff determination eligible for appeal shall be \$480.00. The fees for an appeal of an administrative citation shall be the amount of the fine imposed by the citation, up to a maximum amount of \$500.00 per citation appealed. Fees collected to facilitate administrative appeals shall be in addition to the outstanding balances owed the City related to the case being appealed. Notwithstanding the foregoing, should the appellant prevail in the administrative appeal through a favorable ruling from the hearing officer or body, the administrative appeal fee shall be refunded to the appellant.

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.

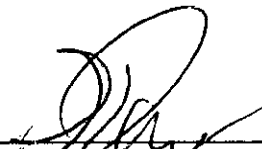
(d). **Documentation Supporting Deferral/Waiver.** In support of any appeal fee deferral or waiver, an appellant shall furnish such financial information as the City

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 2077), (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 this 10th day of September 2014.



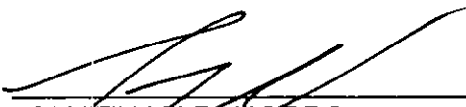
GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2014-209**

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


I, Jason Lindgren, 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 September 10, 2014 by the following vote:

AYES : COUNCILMEMBERS: Davis, Cooper, Detrick, Hume, Trigg

NOES: COUNCILMEMBERS: None

ABSTAIN : COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



**Jason Lindgren, City Clerk
City of Elk Grove, California**