

**CITY OF ELK GROVE  
MEASURE J**

**J UTILITY USER TAX REDUCTION AND MODERNIZATION MEASURE** Shall an ordinance be adopted to reduce the existing Utility User Tax from 2.5% to 2.25%; modernize the current ordinance to treat taxpayers equally regardless of technology used for telecommunications and video services; to preserve funding for essential general municipal services, such as public safety?

**IMPARTIAL ANALYSIS OF MEASURE J**

Prepared by Elk Grove City Attorney

**LEGAL IMPACT**

**Background.** Upon incorporation, the City of Elk Grove adopted a Utility Users Tax ("UUT") identical to that used in the County of Sacramento. The County's UUT ordinance had been in effect for many years prior to the City's adoption of its text; the City has not altered any of the ordinance authorizing the UUT in the intervening 10 years.

Because of recent changes in federal laws, some cellular telephone companies are challenging ordinances similar to Elk Grove's in court. The cellular telephone companies claim that these federal changes should, in effect, remove the local UUT on most telephone calls. In specific, telecommunication companies are contesting the ability to tax call processing in the era of bundled services. Also, new technologies for telephone and video services are evolving. These technologies didn't exist at the time the UUT was adopted and therefore were not included in the existing ordinance. As users move to the new technology, UUT revenue from telecommunications and video services will decline. Users who cannot, or do not choose to, use the new technology will be taxed while others receiving the same service through newer technology will not.

**Effect.** In substance, Measure J would do the following:

- replace the existing telephone and video provisions of the UUT with new ones that would not be affected by changes in federal law and would apply equally to all telecommunication and video services regardless of the technology used.
- reduce the maximum rate of the tax from 2.5% to 2.25% on all taxed utility services (gas; electricity; telecommunications, including telephone and cellular telephone; video services, encompassing cable television and wireless pay television; and sewer).
- clarify the City's UUT collection and appeals procedures.
- require annual outside expert audits to assure that the UUT has been properly collected and accounted for.

Like the existing tax, the new tax would be a general tax, with all proceeds deposited into the City's General Fund. It requires a simple majority vote to pass.

A **"YES"** vote is a vote to adopt the new UUT ordinance to replace the existing UUT.

A **"NO"** vote is a vote to reject the new UUT ordinance and keep the existing UUT.

**FISCAL IMPACT**

The legal and technology issues could reduce the City's projected General Fund revenues by as much as \$600,000 per year. The General Fund pays for most of the City's police, code enforcement, animal control, financial and administrative services, and some transit services. Some or all of these services could be affected by the lost revenue. Measure J would prevent the loss of those revenues.

Respectfully submitted,  
Susan Burns Cochran  
City Attorney

**FULL TEXT OF MEASURE J**

"The above statement is an impartial analysis of City of Elk Grove Ordinance No. 14-2010, amending Elk Grove Municipal Code Chapter 3.40 relating to Utility User Tax. If you desire a copy of the ordinance, please access the City of Elk Grove website at: <http://www.elkgrovecity.org/city-clerk/election-information.asp>, or call the Office of the City Clerk, City of Elk Grove, at (916) 478-3635 and a copy will be mailed at no cost to you."

**NO ARGUMENT IN FAVOR OF OR AGAINST  
MEASURE J WAS FILED**