

ORDINANCE NO. 14-2020

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING CHAPTER 4.54, ADDITIONAL REGULATIONS AND PROHIBITIONS
FOR BUSINESSES (CEQA EXEMPT)**

WHEREAS, Elk Grove Municipal Code (EGMC) Chapter 4.54 regulates the sale of merchandise upon the public streets and sidewalks within the City; and

WHEREAS, Government Code Section 51036 et. seq. authorizes a local authority to adopt additional requirements regulating the time, place and manner of sidewalk vending; and

WHEREAS, the adoption of this ordinance will not impact the environment and is therefore exempt under the California Environmental Quality Act (CEQA) Section 15061(b)(3).

NOW, THEREFORE, the City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose

The purpose of this ordinance is to amend EGMC Chapter 4.54 Additional Regulations and Prohibitions for Businesses, Article I Street Businesses.

Section 2: Amend EGMC Section 4.54.005 Definitions

*(All additions are shown as **bold text**, deletions in ~~strikethrough~~)*

EGMC Section 4.54.005 is hereby amended to read as follows:

4.54.005 Definitions.

As used in this article, the following terms shall be ascribed the following meanings:

...

E. "Sidewalk Vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path, and/or in a public park.

F. "Roaming Sidewalk Vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

G. “Stationary Sidewalk Vendor” means a sidewalk vendor who vends from a fixed location. A Sidewalk Vendor who stops at any given location for longer than it takes to complete a transaction shall be deemed a stationary sidewalk vendor.

Section 3: Amend Elk Grove Municipal Code Section 4.54.010 titled Prohibitions

*(All additions are shown as **bold text**, deletions in ~~strikethrough~~)*

Elk Grove Municipal Code Section 4.54.010 is hereby amended to read as follows:

4.54.010 Prohibitions. Sidewalk Vendor Regulations.

~~Except as otherwise provided by EGMC Section 4.54.015, it shall be unlawful for any person to:~~

~~A. Hawk or peddle merchandise upon the public streets; or~~

~~B. Place a stand or merchandise upon a sidewalk for the purpose of hawking or peddling merchandise.~~

Except as otherwise provided in EGMC Chapters 4.54 and 9.36, no person shall engage in Sidewalk Vending on public streets, public sidewalks, or in public parks in the City of Elk Grove. Sidewalk Vending on public streets, public sidewalks, or in public parks in the City of Elk Grove may only occur in accordance with the following conditions:

A. Each Sidewalk Vendor shall obtain the following prior to any sidewalk vending activity:

- 1. City of Elk Grove business license; and**
- 2. Valid California Department of Tax and Fee Administration (CDTFA) seller's permit, if applicable; and**
- 3. Valid Sacramento County Health permits, if applicable.**

B. Sidewalk Vendors shall not hinder or obstruct the free passage of pedestrians along a sidewalk or block the entrance into any place of business. This includes maintaining a clear path of travel on the sidewalk of not less than five feet wide in

compliance with the Americans with Disabilities Act (ADA) free of customer queuing, signage, pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or merchandise.

C. Sidewalk Vendors shall not obstruct visibility at intersections in violation of EGMC section 12.12.020.

D. Stationary Sidewalk Vendors may not operate in residential zoning districts.

E. A Roaming Sidewalk Vendor engaged in sidewalk vending shall only stop for the time reasonably necessary to complete a transaction.

F. Between November 1st and February 28th (February 29th in a leap year) of any given year, solicitation activities shall only be conducted between the hours 9:00 a.m. to 6:00 p.m. daily, except on Sundays when the earliest start time shall be 10:00 a.m. Between March 1st and October 31st of any given year, solicitation activities shall only be conducted between 9:00 a.m. and 7:00 p.m., except on Sundays when the earliest start time shall be 10:00 a.m.

Section 4: Add new section to Elk Grove Municipal Code Section 4.54.025 titled Sidewalk Vendors License Requirements.

*(All additions are shown as **bold** text, deletions in ~~strikethrough~~)*

Elk Grove Municipal Code Section 4.54.025 is hereby added to read as follows:

Section 4.54.025 Sidewalk Vendor Business License Requirements.

4.54.025 Sidewalk Vendor.

Prior to the issuance of a City of Elk Grove business license for any sidewalk or park vending activity, each Vendor shall submit the following information to the City:

1. Mailing address;
2. A description of the merchandise offered for sale or exchange;
3. A signed acknowledgement of the City's operating standards and regulations related to street vending;
4. A certification by the Sidewalk Vendor, that to his or her knowledge and belief, the information submitted pursuant to this section is true and correct;

5. **The California Sellers permit number (CDTFA sales tax number) of the Sidewalk Vendor, if such vendor is required by CDTFA to have a sellers permit; and**
6. **If the Sidewalk Vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.**

Section 5: California Environmental Quality Act (CEQA).

Finding: The Project is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

Evidence: CEQA requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (CEQA Guidelines, § 15378.) The proposed Project includes discretionary amendments to the EGMC and is a project under CEQA; but it is exempt from CEQA review as set forth below. CEQA Guidelines Section 15061(b)(3) states that a project is exempt from CEQA “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” The code amendments approved herein do not approve any physical development project. The EGMC amendments would allow for sidewalk vending which would be subject to compliance with the EGMC and any associated conditions of approval. The Project would not have a significant effect on the environment and is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption).

Section 6: 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 7: 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 8: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

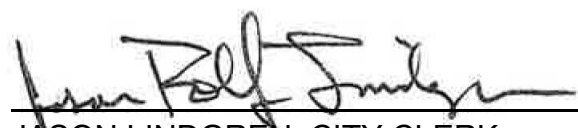
Section 9: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) 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).

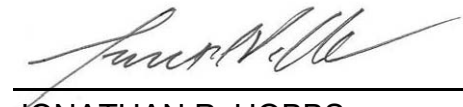
ORDINANCE: **14-2020**
INTRODUCED: June 24, 2020
ADOPTED: July 22, 2020
EFFECTIVE: August 21, 2020



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: **July 31, 2020**


**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 14-2020**

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 ordinance, published and posted in compliance with State law, was duly introduced on June 24, 2020 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on July 22, 2020 by the following vote:

AYES:	COUNCILMEMBERS:	<i>Ly, Detrick, Hume, Nguyen, Suen</i>
NOES:	COUNCILMEMBERS:	<i>None</i>
ABSTAIN:	COUNCILMEMBERS:	<i>None</i>
ABSENT:	COUNCILMEMBERS:	<i>None</i>

A summary of the ordinance was published pursuant to GC 36933(c) (1).



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