

ORDINANCE NO. 31-2014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING PORTIONS OF ELK GROVE MUNICIPAL CODE TITLES 16 AND 23

WHEREAS, staff identified a series of minor amendments to the Elk Grove Municipal Code that needed to be made; and

WHEREAS, the proposed changes modify and clarify the various planning permits and entitlements and correct inconsistencies throughout Titles 16 and 23; and

WHEREAS, the proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Division 6, Chapter 3 (State CEQA Guidelines); and

WHEREAS, the approval of these amendments does not approve any development project.

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

Section 1: Purpose and Authority

The purpose of this Ordinance is to amend the Elk Grove Municipal Code Title 23 (Zoning) and Title 16 (Buildings and Construction) to clarify the various planning entitlements and development standards, correct inconsistencies, and to bring ordinances into compliance with recent case law.

Section 2: Findings

California Environmental Quality Act (CEQA)

Finding: The proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Division 6, Chapter 3 (State CEQA Guidelines).

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.” Section 15061 (b)(3) of Chapter 3, Title 14 of the California Code of Regulations (the CEQA Guidelines) describes the General Rule that CEQA only applies to projects which “have the potential for causing a significant effect on the environment; 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 activity is not subject to CEQA.”

The approval of these amendments does not approve any development project. The proposed changes modify and clarify the various planning permits and entitlements, correct inconsistencies, and bring ordinances into compliance with recent case law throughout Titles 16 and 23.

Each of these components, individually and cumulatively, would not result in the possibility of creating significant or cumulative effects on the environment. Future development under the proposed regulations would be subject to CEQA at that time, as those actions would be classified as “projects” under CEQA. Therefore, these changes are not subject to CEQA under the General Rule and no further environmental review is necessary.

General Plan Consistency

Finding: The proposed amendments to Titles 16 and 23 are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed amendments to Titles 23 (Zoning) and 16 (Buildings and Construction) of the Elk Grove Municipal Code include minor amendments to clarify the various planning entitlements and development standards, correct inconsistencies throughout Title 23 and update Title 16 to bring it into compliance with recent case law. These changes are consistent with the General Plan because they do not alter the allowed intensity or density of development beyond that contemplated in the General Plan.

Section 3. Amendments to Title 23 (Zoning)

EGMC Title 23 is amended as show in Exhibit A.

Section 4. Amendments to Title 16 (Buildings and Construction)

EGMC Title 16 is amended as shown in Exhibit B.

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: 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 8: 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: 31-2014
INTRODUCED: December 10, 2014
ADOPTED: January 14, 2015
EFFECTIVE: February 13, 2015



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: January 22, 2015

EXHIBIT A

Title 23. Zoning

Division II. Administration and Permit Procedures

23.14.050 Approving Authority.

B. Planning Director/Zoning Administrator Elevations. For any entitlement where the Planning Director or Zoning Administrator is the final designated approving authority, he or she may elevate the project to the Planning Commission for review and final action if, in their opinion, the project warrants Planning Commission hearing because of project location, size, design, or other unique issues as determined by the designated approving authority. [Ord. 27-2013 §4, eff. 2-7-2014; Ord. 8-2011 §7(B), eff. 6-24-2011]

23.16.070 Conditional Use Permit and Minor Conditional use Permit.

B. Approving Authority. The designated approving authority of use permits (both conditional and minor conditional) is listed below:

1. Conditional Use Permit. The designated approving authority for a conditional use permit is the Planning Commission. The Planning Director provides a recommendation and the Planning Commission approves, conditionally approves, or denies the conditional use permit in accordance with the requirements of this title.

2. Minor Conditional Use Permit. The designated approving authority for a minor use permit is the Zoning Administrator. The Planning Director provides a recommendation and the Zoning Administrator approves, conditionally approves, or denies the minor conditional use permit in accordance with the requirements of this title.

a. If the Zoning Administrator elevates a Minor Conditional Use Permit to the Planning Commission for review and consideration, the permit request shall become a Conditional Use Permit.

Division III. Zoning Districts, Allowable Uses, and Development Standards

23.26.050 Descriptions of Land Use Classifications

[A.10]c. "Household pets" means domestic animals ordinarily permitted in a place of residence, kept for company and pleasure, such as dogs, cats, pot-bellied pigs, domestic birds, guinea pigs, white rats, rabbits, mice, and other similar animals generally considered by the public to be kept as pets, excluding fowl.

[B]5. "Building materials stores and yards" means retail establishments selling lumber and other large building materials, where most display and sales occur indoors. Includes paint, wallpaper, glass, and fixtures. Includes stores selling to the general public, even if contractor sales account for a major proportion of total sales. Includes incidental retail ready-mix concrete operations, except where excluded by a specific zoning district. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "warehousing" and "wholesaling and distribution." Hardware stores are listed in the definition of "retail, general," even if they sell some building materials.

[B]7. "Business support services" means establishments primarily within buildings, providing other businesses with services including maintenance, repair and service, testing, rental, etc.; also includes: blueprinting business; equipment repair services (except vehicle repair, see "vehicle services"); commercial art and design (production); computer-related services (rental, repair); copying, quick printing, and blueprinting services (other than those defined as "printing and publishing"); equipment rental businesses within buildings (rental yards are "equipment sales and rental"); film processing laboratories; heavy equipment repair services where repair occurs on the client site; janitorial services; mail advertising services (reproduction and shipping); mailbox services; other "heavy service" business services; outdoor advertising services; photocopying and photofinishing; protective services (other than office-related); soils and materials testing laboratories; and window cleaning.

[M]7. "Medical services, extended care" means residential facilities providing nursing and health-related care as a primary use with in-patient beds, such as: board and care homes; convalescent and rest homes; extended care facilities; skilled nursing facilities. Long-term personal care facilities that do not emphasize medical treatment are included under "residential care facility."

[O]3. "Offices, business and professional" includes offices of administrative businesses providing direct services to consumers (insurance companies, utility companies, etc.), government agency and service facilities (post office, civic center, etc.), professional offices (accounting, attorneys, employment, public relations, etc.), and offices engaged in the production of intellectual property (advertising, architectural, computer programming, photography studios, etc.). These do not include medical offices (see "medical services, clinics, offices, and laboratories"), temporary offices (see Section 23.26.040, Temporary Uses, and Chapter 23.92, Temporary Uses), or offices that are incidental and accessory to another business or sales activity that is the primary use (see "offices, accessory").

[P] 5. "Pediatric day health and respite care facility, small" means a facility which provides an organized program of therapeutic social and day health activities and

services and limited 24-hour inpatient respite care to six (6) or fewer children 21 years of age or younger who are considered to be medically fragile, including terminally ill and technology dependent children.

[P] 6. "Pediatric day health and respite care facility, large" means a facility which provides an organized program of therapeutic social and day health activities and services and limited 24-hour inpatient respite care to more than six (6) children 21 years of age or younger who are considered to be medically fragile, including terminally ill and technology dependent children.

Notes that pertain to the Residential Zoning Districts:

1. In the RD-20 zone only.
2. Duplexes/halfplexes are permitted (P) on corner lots by right. Duplexes/halfplexes on interior lots require a CUP.
3. The following restrictions apply to the keeping of animals in traditional residential zoning districts (see definition of animal keeping for category descriptions):
 - a. Exotic. All exotic animals shall be kept and maintained a minimum distance of forty (40' 0") feet from any property line unless contained within the dwelling.
 - b. Fowl, limited to chickens only, may only be kept on residential property when consistent with the following:
 - i. Residents may have up to six (6) chickens in all RD zone districts, as long as the chickens are confined within a clean coop or cage. Such structures must be kept a minimum of five (5) feet from interior side and rear property lines.
 - ii. Notwithstanding the above, residents may have up to 12 chickens if a minimum 40-foot buffer is maintained between the area for the chickens and any neighboring property line. Chickens may roam the property as long as the 40-foot buffer is maintained through use of a fence, wall, or other barrier.
 - iii. Roosters are not permitted in RD zone districts.
 - c. Household Pets. Keeping of any combination of five (5) or more cats and dogs is considered a kennel for this title. See EGMC Section 8.02.050 for restrictions on the number of animals allowed.
 - d. Livestock. Two (2) livestock animals may be permitted for each half acre of land. All livestock shall be kept and maintained a minimum distance of forty (40' 0") feet from any property line and a minimum distance of seventy-five (75' 0") feet from any residential dwelling.
4. Permitted as an accessory use to the primary use permitted in the specific zoning district.
5. Permitted by right if the use is located on a property owned by the school district.

Footnote 2 to Table 23.29-1 Part B:

2. As part of the design review process, the maximum height may be increased up to one hundred fifty (150' 0") feet; provided, that all buildings are set back from the ultimate right-of-way line of all abutting streets and freeways a distance at least equal to the height of the building.

Division IV. Site Planning and General Development Regulations

23.52.060 Fence and wall design standards.

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B. Fencing Materials. Fences and walls shall be constructed of long-lasting materials and architecturally integrated with the building design and with existing fences/walls on the site, as determined in the sole discretion of the City. Unless approved as a condition of approval or in conjunction with another permit or

entitlement, the following limitations apply:

Fences and gates approved for screening purposes in Residential and Agricultural Residential Districts shall be solid wood, solid vinyl, masonry, tubular steel, or wrought iron. Agricultural Residential Districts may utilize chain-link for interior fencing only. No chain-link fencing is allowed within required front yards.

1. Fences and gates approved for screening purposes in Industrial or Commercial districts shall be metal, tubular steel, masonry, or wrought iron. Industrial districts may utilize chain-link for interior fencing only when adjacent to other Industrial zones or uses.
2. Barbed wire fencing shall not be constructed or placed on top of a fence except in agricultural, open space, or industrial areas. Minor design review is required for barbed wire fencing abutting residential or commercial areas.
3. Alternative materials may be approved by the Planning Director, Zoning Administrator, or Planning Commission as part of a discretionary entitlement approval.

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23.58.050 Number of parking spaces required.

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B. General Use Provisions for Off-Street Parking Spaces.

1. Required off-street parking spaces shall not be used for any purpose that at any time would prevent vehicles from parking in required parking spaces, except as permitted by EGMC Chapter 23.92 (Temporary Uses).

2. Parking facilities shall be used for automobile parking only. No sales, dead storage, repair work, dismantling, or servicing of any kind shall be permitted without necessary permits for such use. The only exception to this rule is for temporary use of parking areas when the remaining number of unobstructed parking spaces complies with the minimum parking requirements for the permanent use(s) of the property in accordance with Table 23.58-2.

3. Residential Guest Parking. For residential tenant and guest parking, the spaces must be marked per the required minimum standards for tenant and guest parking.

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Table 23.58-2
Parking Requirements by Land Use

Fuel Storage and Distribution	2 spaces per 3 employees (during a maximum shift) plus space to accommodate all trucks and other vehicles
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Division V. Special Use Regulations

23.94.050 Development standards.

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C. Development Standards for Towers. The following development standards shall apply to towers (including co-location facilities) as defined in EGMC Section 23.94.020, Definitions:

3. Location. Towers shall not be located in any required front or street side yard in any zoning district. The setback distance from any abutting street right-of-way, residential property line, or public trail shall be equal to the height of the facility (tower and related equipment). Otherwise, the minimum setback distance from all other property lines shall be at least equal to twenty (20%) percent of the height of the tower. Existing towers may be allowed to increase the height without requiring the tower to be relocated as part of the conditional use permit approval, provided the overall maximum height of the tower does not exceed the height limit listed in subsection (C)(4) of this section, unless an exception is approved by the designated approving authority.

EXHIBIT B

Title 16. Buildings and Construction

Section 16.18.1119 shall be repealed in full

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 31-2014

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 December 10, 2014 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 14, 2015 by the following vote:

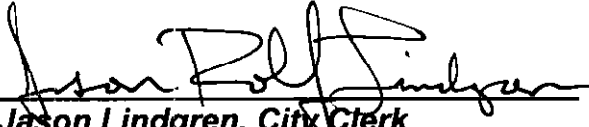
AYES : **COUNCILMEMBERS:** *Davis, Hume, Detrick, Ly, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*

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



Jason Lindgren, City Clerk
City of Elk Grove, California