

ORDINANCE NO. 19-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE SECTION 23.61.070 CONCERNING STREET BANNERS AND MILITARY BANNER SIGNS

WHEREAS, the City Council of the City of Elk Grove has a long-standing high regard for those who serve, or have served, in our country's military; and

WHEREAS, the City staff estimates that there are approximately 9,000 military veterans living in the City of Elk Grove; and

WHEREAS, those residents who serve in the nation's military, and those who have served with an honorable discharge, are a vital resource of the City, and a military banner program honoring their service would serve the public interest and

WHEREAS, the City Council wishes to amend the current street banner program to specifically provide for military banners on City property.

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

Section 1: Purpose

The purpose of this ordinance is to provide for a military banner program in the City of Elk Grove and create the framework for the promulgation of administrative guidelines governing such program.

Section 2: Findings.

California Environmental Quality Act (CEQA)

Finding: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061 (b)(3) which establishes 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."

Evidence: The approval of these amendments does not approve any development project. The proposed changes modify the allowances under the existing Banner Program to allow for military-related banners within the existing program parameters. The current program allows banners to be placed within existing City right-of-way on City property (i.e. street light standards) for a period of 60 days. The proposed amendment would specifically allow military banners of the same type and in the same physical location for a period of up to one year. The placement of banners for any length of time in existing City right-of-way does not currently result in any adverse environmental impacts. Said banners do not block significant views for traffic flow or otherwise result in hazardous conditions nor do they interfere with lighting functionality

or cause significant aesthetic impacts. The proposed amendments extending the time duration for placement of military banners in the same physical form and location would also not result in hazardous conditions, blocked views of the traveling public, reduction in light levels, or adverse aesthetic impacts. No additional physical modifications to any City poles or structures or other physical development will result from implementation of these amendments. Therefore, the amendments do not have the potential to result in individually or cumulatively significant effects on the environment. The proposed amendment is exempt from review under CEQA under the General Rule (CEQA Section 15061 (b)(3)) and no further environmental review is necessary.

General Plan

Finding: The proposed project is consistent with the goals, policies, and implementation programs of the Elk Grove General Plan.

Evidence: The proposed project implements the General Plan Focused Goal 1-8, which encourages the maintenance of a strong, positive community image. By allowing military banner signs within the context of the existing Street Banner program, the signs will be located and managed in an orderly fashion, avoiding the creation of visual clutter along the City's roadways.

Section 3: Amendment to Elk Grove Municipal Code section 23.61.070.

Section 23.61.070 of the Elk Grove Municipal Code is amended to read as follows:

23.61.070 Street banner program.

A. The City's street banner program is reserved for the City's use to promote its own messages and those events which are sponsored or co-sponsored by the City.

B. Notwithstanding any other section of this title, the City Manager (or his/her designee), or the City Council upon appeal, as provided in this section, may authorize the temporary placement of banner signs on poles or structures within the public right-of-way on City property where those banners display the name and/or date of an event and/or activity sponsored entirely by the City of Elk Grove or co-sponsored by the City of Elk Grove that calls attention to the City, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community. Any events for which banners are authorized under this section shall be of limited duration and may or may not involve an assembly of persons.

C. Any banners authorized by this section shall be for a limited duration, and may be a part of the City's economic development program, and should call attention to the City, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community. Nothing herein shall relieve any person from obtaining any other necessary permit or license for an event or activity.

D. No person shall place, cause to be placed, or maintain a banner sign on any City pole or structure in the public right-of-way or on City property except as authorized herein.

E. The City Manager shall designate those City poles or other structures at streets, highways, alleys, other public rights-of-way, and those City properties on which banner signs as authorized herein may be placed. The message on the banners shall be considered government speech, and the designation or the placement of the banners is not intended to create, nor shall it create, a public forum.

F. The City Manager may authorize a banner or banners for an event and/or activity sponsored entirely by the City or co-sponsored by the City, subject to the following conditions:

1. Except as set forth herein, the banner(s) may be placed for a period of up to sixty (60) days and the City or applicant shall then cause the banner(s) to be removed at the City or applicant's expense, as applicable, based on who placed the banner, subject to replacing of the banner at the same or different location at a later date;
2. The banner(s) should promote an event and/or activity sponsored entirely by the City or co-sponsored by the City, occurring within the City, calling attention to the City, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community;
3. The banner(s) may contain the name and date of the event, if any;
4. The banner(s) shall be secured tightly to the structures on which they are authorized to be attached; and
5. For non-City applicants that are co-sponsors with the City, the applicant must agree to defend, indemnify, and hold harmless the City from any damages arising from the banners in a form acceptable to the City Attorney.

G. No banner shall be authorized unless the City Manager, or City Council on appeal, finds that the banners are so designated as not to block views significant for traffic or does not otherwise present a safety hazard.

H. As used herein, a "banner" sign² means a strip of cloth or other flexible material approved by the City Manager on which a sign or message is painted calling attention to the City, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community.

I. Notwithstanding any other provision of this section, the City Manager is authorized to develop and implement a military banner sign program, which may include, without

limitation, application forms and administrative guidelines for the placement of banners honoring the City's current military personnel or the City's military personnel who have been honorably discharged from service. Notwithstanding any other time limitations set forth in this section, any military banner sign placed on City property consistent with the military banner program and any administrative guidelines governing the program, may be in place for a period not to exceed twelve (12) months, after which, the banner shall be removed, subject to replacing of the banner at the same or different location at a later date.

J. Any decision or determination of the City Manager pursuant to this section may be appealed Pursuant to Elk Grove Municipal Code Section 1.11.

Section 4: 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 5: 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 6: Savings Clause

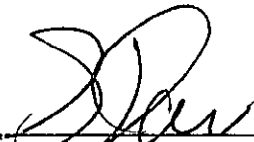
The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall 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 7: 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: **19-2016**
INTRODUCED: September 14, 2016
ADOPTED: September 28, 2016
EFFECTIVE: October 28, 2016



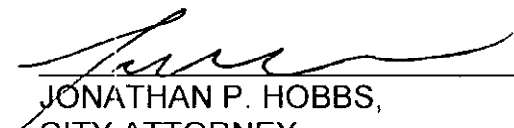
GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: October 17, 2016

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 19-2016**

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 September 14, 2016 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 28, 2016 by the following vote:

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