

ORDINANCE NO. 25-2016

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 16.18 RELATING TO
NUISANCES, INCLUDING VEHICLE MAINTENANCE, WEEDS,
AND ABATEMENT PROCEDURES**

WHEREAS, the Elk Grove Municipal Code Chapter 16.18, Nuisance Code, was established to provide a just, equitable and practicable method for preventing, discouraging and/or abating certain conditions which endanger the life, limb, health, property, safety or welfare of the general public and to provide City staff with enforcement regulations that can be effectively applied and administered in a fair, expedient, and cost-efficient manner; and

WHEREAS, the Elk Grove Municipal Code Chapter 16.18 sets forth the administrative process for enforcing violations of the Municipal Code; and

WHEREAS, the Elk Grove Municipal Code undergoes updates at times in an effort to best clarify and inform citizens of nuisance conditions and ensure due process of law; and

WHEREAS, this Code amendment is necessary to ensure effective and efficient Code enforcement, and to address enforcement issues that have been identified through application of the Code.

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 Elk Grove Municipal Code chapter 16.18 relative to nuisances.

Section 2: Findings

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

Evidence: Section 15061 (b)(3) of 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 proposed changes amend definitions and clarify nuisance standards contained in the Elk Grove Municipal Code by making changes to Title 16 related to Nuisances. Because each of these components, individually and cumulatively, do not have the potential to result in individually or cumulatively significant effects on the environment, these Municipal Code amendments are exempt from review under CEQA. Therefore, these changes are not subject to CEQA review at this time under the General Rule and no further environmental review is necessary.

Section 3: Action - Amend Elk Grove Municipal Code Sections 16.18.1116 titled Maintenance, repair, restoration, or dismantling vehicle or large equipment or machinery

It is unlawful and it shall be declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to allow or perform on such premises or property the maintenance, repair, restoration or dismantling of any vehicle, large machinery, or large equipment upon any residential property, walkway, or easement visible from a public street or sidewalk or from an adjoining property. This prohibition shall not apply to work which is specifically authorized by State or local law or regulation and shall not apply to personal, non-commercial minor repair and maintenance of vehicles, machinery or equipment which belongs to the person residing at the property, and which is performed inside an enclosed structure such as a garage or performed outside, but is not visible for longer than twenty-four (24) consecutive hours. Vehicles, machinery, and equipment must be stored in an enclosed structure when repair or maintenance work is not being performed on these items.

Section 4: Action - Amend Elk Grove Municipal Code Section 16.18.1134 titled Weeds

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property in a manner that has resulted in an accumulation of weeds. For purposes of this section, “weeds” shall mean any of the following: (a) weeds which bear seeds of a downy or wingy nature and are at a height of twelve inches (12”) or greater; (b) sagebrush, chaparral, and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property; (c) weeds which are otherwise noxious or dangerous; (d) poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health; and/or (e) dry grass, stubble, brush, or other similar material which endangers the public safety by creating a fire hazard.

Section 5: Action - Amend Elk Grove Municipal Code Sections 16.18.1320 titled Recordation of certificate of nuisance, and 16.18.1330 Recordation of certificate of abatement.

Elk Grove Municipal Code Section 16.18.1320 is hereby amended to read as follows:

16.18.1320 Recordation of certificate of nuisance.

Following either an administrative appeal decision issued by the Appeals Hearing Officer pursuant to EGMC Chapter 1.11 or failure to file a request for appeal within the time specified in EGMC Chapter 1.11, a certificate of nuisance may be filed and recorded in the office of the Sacramento County Clerk-Recorder to certify that: A) the subject property is being maintained as a public nuisance in violation of the Elk Grove Municipal Code and/or applicable statute, rule, code and regulation and B) the property owner has been so notified.

16.18.1330 Recordation of certificate of abatement.

Whenever it is determined that the violations set forth in the certificate of nuisance have been corrected so that the premises no longer exists in a condition that is a public nuisance in violation of the Elk Grove Municipal Code and/or applicable statute, rule, code and regulation, and all fines and fees related to the corrected violations have been paid, a certificate of abatement may be recorded in the office of the Sacramento County Clerk-Recorder certifying that all required corrections have been made and that the subject premises is no longer being maintained as a public nuisance.

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.

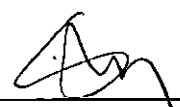
Section 8: Savings Clause

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: **25-2016**
INTRODUCED: November 9, 2016
ADOPTED: December 14, 2016
EFFECTIVE: January 13, 2017



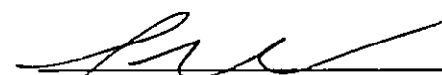
STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: December 22, 2016

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 25-2016**

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 November 9, 2016 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 14, 2016 by the following vote:

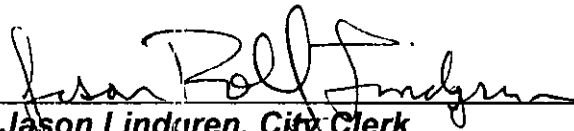
AYES : **COUNCILMEMBERS:** *Ly, Detrick, Hume, Suen*

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**