

## ORDINANCE NO. 18-2020

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE REPEALING CHAPTER 16.36 OF THE ELK GROVE MUNICIPAL CODE RELATING TO SWIMMING POOLS

**WHEREAS**, the Uniform Building Codes were developed and published by the International Conference of Building Officials until 1997; and

**WHEREAS**, in 2000, the City adopted Elk Grove Municipal Code (EGMC) Chapter 16.36 containing swimming pool construction and safety standards drawn from the 1997 Uniform Swimming Pool, Spa, and Hot Tub Code; and

**WHEREAS**, by referencing the 2019 California Residential Code, including Appendix V, through the amendment of EGMC Chapter 16.10 in 2019, the standards contained within EGMC Chapter 16.36 are antiquated and their inclusion in the EGMC is no longer necessary.

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

#### Section 1: Repeal of Elk Grove Municipal Code Chapter 16.36 Swimming Pools

Chapter 16.36 of the Elk Grove Municipal Code is hereby repealed in its entirety.

#### Section 2: California Environmental Quality Act (CEQA)

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 City’s Municipal Code and is a project under CEQA; but it is exempt from CEQA review as set forth below.

CEQA Guidelines section 15060(c)(2) states that a project is not subject to CEQA review where the activity will not result in a direct or reasonably foreseeable indirect physical change to the environment. 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 approval of the code amendments set forth in the proposed ordinance does not approve any physical development project, and it would not result in a direct or indirect physical change in the environment. The proposed repeal of EGMC Chapter 16.36 is necessary to maintain consistency with state law and ensure a safe built environment. Many of the standards are already being implemented by the City when reviewing construction projects and would not change how these projects are reviewed and approved.

#### Section 3: 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 4: 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 portion thereof and intends that the invalid portions should be severed, and the balance of the ordinance be enforced.

Section 5: Savings Clause

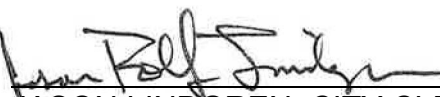
The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect 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.

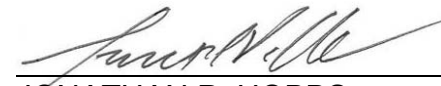
Section 6: Effective Date and Publication

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:**           **18-2020**  
**INTRODUCED:**       September 9, 2020  
**ADOPTED:**           September 23, 2020  
**EFFECTIVE:**         October 23, 2020

  
\_\_\_\_\_  
STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:  
  
\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
JONATHAN P. HOBBS  
CITY ATTORNEY

Signed: September 28, 2020

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL ORDINANCE NO. 18-2020**

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 September 9, 2020 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 23, 2020 by the following vote:*


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

**NOES:**                   **COUNCILMEMBERS:**     *None*

**ABSTAIN:**               **COUNCILMEMBERS:**     *None*

**ABSENT:**               **COUNCILMEMBERS:**     *Detrick*

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

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