

ORDINANCE NO. 21-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING SECTION 23.18.020 OF THE ELK GROVE MUNICIPAL CODE REGARDING PERMIT TIME LIMITS (CEQA EXEMPT)

WHEREAS, on March 4, 2020, Governor Gavin Newsom (“Governor”) proclaimed a State of Emergency in California as a result of the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, the Elk Grove City Manager issued a proclamation (Proclamation) that a local emergency exists in the City of Elk Grove and that the COVID-19 pandemic has caused, and will continue to cause, conditions of extreme peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City; and

WHEREAS, the Proclamation was ratified by the City Council at a special meeting on March 18, 2020, and remains in effect; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20 ordering all residents of California to stay at home (Directive), unless serving in the category of essential services; and

WHEREAS, due to the effects the COVID-19 pandemic has had on development projects, the proposed amendment would grant a one-year extension to the expiration of any administrative and quasi-judicial permit including but not limited to conditional use permits (all types), minor deviations, variances, and design reviews (all types) that are currently valid or are approved until the Code subsection sunsets on November 28, 2021; and

WHEREAS, the Planning Commission of the City of Elk Grove (the “Planning Commission”) held a duly-noticed public hearing on September 17, 2020, as required by law to consider all of the information presented by staff, and public testimony presented in writing and at the meeting; and

WHEREAS, the City Council of the City of Elk Grove (the “City Council”) held a duly-noticed public hearing on October 14, 2020, as required by law to consider all of the information presented by staff, and public testimony presented in writing and at the meeting

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 Section 23.18.020 of the Elk Grove Municipal Code to provide for a one-year extension to the expiration of any administrative and quasi-judicial permit including but not limited to conditional use permits (all types), minor deviations, variances, and design reviews (all types) that are approved as of November 28, 2021.

Section 2: Findings

California Environmental Quality Act (CEQA)

Finding: The Project is exempt from environmental review 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” (State CEQA Guidelines Section 15378). State CEQA Guidelines Section 15061(b)(3) describes the Common Sense Exemption that CEQA only applies to projects which “have the potential for causing a significant effect on the environment” and that “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 Ordinance would provide an extension of time to the existing three-year period to exercise certain Planning approvals. Such approvals have been, or will be, individually subject to review under CEQA at the time of approval and the extension of time to act upon such approvals would not result in any new significant environmental effects. The action is exempt from CEQA review pursuant to the principle that an action is exempt from CEQA review if it can be seen with certainty that the action would not result in a significant effect on the environment. CEQA Guidelines Section 15061(b)(3) (“Common Sense” exemption).

General Plan Consistency

Finding: The proposed amendment to EGMC Section 23.18.020 is consistent with the General Plan goals, policies, and implementation programs.

Evidence: General Plan Policy EM-1-3, under Community Safety and Disaster Management, calls for the establishment of local ordinances and programs to guide and support disaster recovery efforts. The proposed amendment will automatically add one year of additional time to exercise valid Planning approvals and future approvals through the effective term of the proposed amendment. The automatic extension will preserve the substantial investment of money, time, and effort to obtain such approvals and will allow these development projects to remain “shovel ready” through this time of uncertainty.

Section 3. Amendment to EGMC Section 23.18.020 titled Permit Time Limits

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

EGMC Section 23.18.020 is hereby amended to read as follows:

23.18.020 Permit Time Limits

- A. Except as otherwise provided in this title or EGMC Title 22 of this code, any administrative and quasi-judicial permit or approval, including but not limited to conditional use permits (all types), minor deviations, variances, and design reviews (all types) not exercised within three (3) years from the date of final approval shall expire and become null and void.
- B. Notwithstanding subsection (A) of this section, any administrative and quasi-judicial permit, including but not limited to conditional use permits (all types), minor deviations, variances, and design reviews (all types) approved but not yet fully exercised as of November 28, 2021, shall be valid for a period of four (4) years from the date of final approval, and shall thereafter expire and become null and void if not exercised within that four (4) year period.**

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: **21-2020**
INTRODUCED: October 14, 2020
ADOPTED: December 9, 2020
EFFECTIVE: January 8, 2021




BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: December 11, 2020

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 21-2020**

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 October 14, 2020 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 9, 2020 by the following vote:


AYES: COUNCILMEMBERS: *Singh-Allen, Nguyen, Hume, Spease, 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**