

## ORDINANCE NO. 02-2022

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE SECTION 23.26.050 DESCRIPTION OF LAND USE CLASSIFICATIONS (CEQA EXEMPT)

**WHEREAS**, Elk Grove Municipal Code (EGMC) Section 23.26.050 defines land use classifications in the City of Elk Grove; and

**WHEREAS**, from time-to-time, amendments to land use classifications are needed to ensure the language is consistent with policy and practice; and

**WHEREAS**, the City Council wishes to amend EGMC Section 23.26.050.A.14 to clarify the types of organizations and activities that qualify as Assembly Uses; and

**WHEREAS**, on November 18, 2021, a duly-noticed public hearing was held by the Planning Commission to consider this amendment. The Planning Commission voted 4-0 (Commissioner Robles absent) to recommend approval to the City Council; and

**WHEREAS**, there is no foreseeable possibility that the adoption of this ordinance would have a significant effect on the environment and its adoption is therefore exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15061(b)(3), Common Sense Exemption.

**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 EGMC Section 23.26.050.A.14 to clarify the types of activities and organizations that may qualify as Assembly Uses. The code amendment implemented by this ordinance is intended to reflect the City's interpretation and past application of the Assembly Use land use, and it is intended to be declarative of existing law on this point.

#### Section 2: Amend Elk Grove Municipal Code Section 23.26.050 titled Description of land use classifications.

*(All additions are shown as **bold text**, deletions in strikethrough)*

Elk Grove Municipal Code 23.26.050 is hereby amended to read as follows:

23.26.050 Description of land use classifications.

The following terms are used throughout this title and shall have the following descriptions:

A. "A" Allowed Use Descriptions.

...

14. "Assembly uses" means a facility operated by ~~religious, fraternal, or civic organizations~~ **by any person, entity, or organization** for **gatherings of a group of people to engage in social, civic, or entertainment activities including, but not limited to** worship, **weddings, parties, dances,** ~~or promotion of religious, fraternal~~

**civic organization events, and ~~civic activities~~ community events, and accessory uses on the same site, such as living quarters for staff, and child daycare facilities where authorized by the same type of land use permit required for the facility itself. Theaters and auditoriums, as defined herein, shall be included as Assembly Uses. Other facilities establishments maintained by any person, entity, or organizations, such as full-time educational institutions, hospitals and other uses that may include potentially related assembly-type operations (such as a recreational camp) are classified according to their primary respective activities, as classified by this code.**

...

### Section 3: California Environmental Quality Act (CEQA).

Finding: The Project is exempt from CEQA 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.” (CEQA Guidelines, § 15378.) The proposed Project includes discretionary amendments to the EGMC and is a project under CEQA; but it is exempt from CEQA review as set forth below.

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 discussed herein does not approve any physical development project. The EGMC amendments would clarify the types of activities the City finds consistent with the “Assembly Uses” land use classification. Future projects submitted and reviewed under the Assembly Use category will be subject to project-specific CEQA review. Therefore, the Project would not result in a direct or indirect physical change in the environment.

### 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 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 7: Effective Date and Publication

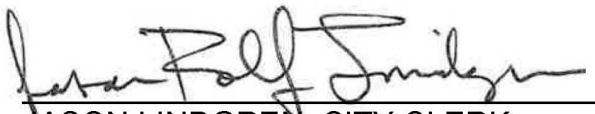
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

**ORDINANCE:**           **02-2022**  
**INTRODUCED:**       January 12, 2022  
**ADOPTED:**           January 26, 2022  
**EFFECTIVE:**         February 25, 2022




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: January 28, 2022

**CERTIFICATION  
ELK GROVE CITY COUNCIL ORDINANCE NO. 02-2022**

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 January 12, 2022, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 26, 2022, by the following vote:*

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

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

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

**ABSENT:**       **COUNCILMEMBERS:** *None*

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

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