

ORDINANCE NO. 23-2002

AN URGENCY ORDINANCE OF THE CITY OF ELK GROVE AMENDING THE ELK GROVE CITY CODE ALLOWING STREET BANNER SIGNS FOR THE LIMITED AND EXCLUSIVE PURPOSE TO PROMOTE CITY SPONSORED ECONOMIC DEVELOPMENT IN THE CITY OF ELK GROVE

The City Council of the City of Elk Grove does ordain as follows:

Section 1. Purpose

1. The City Council recognizes that freedom of speech is a fundamental right protected by the constitutions of the United States and the State of California.

2. The City Council also recognizes that even protected speech is not equally permissible in all places and at all times.

3. Nothing in the Constitution requires the Government freely to grant access to all who wish to exercise their right to free speech on every type of Government property without regard to the nature of the property or to the disruption that might be caused by the speaker's activities.

4. The City Council recognizes that the Government, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated.

5. The purpose of this Ordinance is to create a non-public forum within the City's right of way on City owned property in which banners promoting special events can be placed, subject to City design review, on a temporary basis.

6. The City Code expressly bars the placement of signs on City property and within the public right-of-way, for public safety and other reasons. It is Council's specific intent not to reverse that general rule and instead create a limited public forum with the very narrow focus of authorizing banners to be placed on a temporary basis to promote special events.

7. The purpose behind creating this forum and allow the placement of banners, notwithstanding the general rule to the contrary, is to accomplish the City's policy of promoting economic, cultural, or other special events which are significant to the City and that are sponsored or co-sponsored by the City.

Section 2. Findings

1. The City Council of the City of Elk Grove finds that certain special events and or activities are of special and or substantial importance to the City's economic, social and cultural well-being.

2. The City Council of the City of Elk Grove further finds that economic development is a vital concern of the City of Elk Grove.

3. The City Council of the City of Elk Grove further finds that one of many tools available to the City of Elk Grove for the furtherance of economic development within the City is the placement of banners that promote events and or activity within the City that is also sponsored by the City to promote its natural advantages, resources, enterprises, attractions, climate, facilities, business and community.

4. The City Council of the City of Elk Grove further finds there exists an unmet need within the City to advertise, promote and provide public relations support to certain City sponsored projects calling attention to the city, its natural advantages, resources, enterprises, attractions, climate, facilities, business and community.

5. The City Council of the City of Elk Grove further finds a non-public forum wherein the City can promote business and community economic development events and or activities calling attention to the city, its natural advantages, resources, enterprises, attractions, climate, and facilities is a vital and essential tool in the City's effort to create and establish a comprehensive economic development program for the City of Elk Grove.

6. The City Council of the City of Elk Grove further finds that there are City sponsored and/or City co-sponsored events that are essential to the economic development of the City that will occur before the effective date of any ordinance, thereby causing those opportunities to be lost forever to the City. Every lost economic development opportunity threatens the economic health of the City. In today's budgetary environment, wherein the State of California may adopt budget measures that negatively effect the City's revenue, any lost economic development opportunity presents a clear and immediate threat to the health of the City. Therefore the City adopts, by a 4/5ths vote this ordinance as an urgency ordinance for the immediate preservation of the City's economic health, so the economic opportunities that present themselves in the immediate future.

Section 3. CEQA Findings

The City Council of the City of Elk Grove finds that amending the Elk Grove City Code to provide for temporary street banner signs qualifies as a Class 11 categorical exemption under Section 15311 of the CEQA Guidelines; therefore, does not require the preparation of environmental documents.

The City Council of the City of Elk Grove further finds that a Class 11, Categorical Exemption of the CEQA Guidelines, Section 15311 Accessory Structures, consists of construction or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

- a) On-premise signs;
- b) Small parking lots
- c) Placement of seasonal or temporary use items in publicly owned parks, stadiums, or other facilities designed for public use.

The City Council of the City of Elk Grove further finds that this amendment of the City of Elk Grove City Code allowing street banner signs would not result in a significant environmental impact; therefore, is exempt from the provisions of CEQA.

Section 4. Amendment to Chapter 16.38

Subsection A: A new Section 16.38.250 is added to the Elk Grove Municipal Code to read as follows:

16.38.250 Temporary Banners Promoting City Sponsored Special Events

1. Notwithstanding Sections 16.38.210 and 16.38.220, the City Manager, or the City Manager's designee (hereinafter the term City Manager, shall include the City Manager's designee), or City Council on appeal, may authorize the temporary placement of banner signs 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 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, business and community.
2. Such banners shall be allowed for only a limited duration and must be a part of the City's economic development program calling attention to the city, its natural advantages, resources, enterprises, attractions, climate, facilities, business and community.
3. No person shall place, cause to be placed, or maintain a banner sign in the public right-of-way or on City property except as authorized herein.
4. The City Manager shall designate those streets, highways, alleys, other public right-of-way and those City properties on which banner signs as authorized herein may be placed.
5. The City Manager shall issue a banner sign permit for an event and or activity sponsored entirely the City of Elk Grove or co-sponsored by the City of Elk Grove within 45 days after an application has been filed, subject to the following conditions:

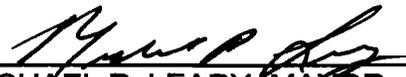
- a. The permit shall expire after 60 days and the applicant shall cause the banners to be removed at applicant's expense;
 - b. The banners promote an event and or activity sponsored entirely the City of Elk Grove or co-sponsored by the City of Elk Grove occurring within the City of limits of Elk Grove calling attention to the city, its natural advantages, resources, enterprises, attractions, climate, facilities, business and community;
 - c. The banners may contain the name and date of the event;
 - d. The banners are secured tightly to the structures on which they are authorized to be attached; and,
 - e. For applicant that are co-sponsors with the City of Elk Grove the applicant must agree to indemnify and hold harmless the City from any damages arising from the banners in a form acceptable to the City Attorney.
6. Each permit shall designate on which specific structures within the public right of way or on City property the banners may be placed.
7. No permit shall issue unless the City Manager, or Council on appeal, finds that the banners are so designed as not to block views significant for traffic or does not otherwise present a safety hazard.
8. As used herein, "banner sign" 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, business and community.
9. As used herein, "special event" means an event and or activity:
- a. Sponsored entirely the City of Elk Grove or co-sponsored by the City of Elk Grove;
 - b. Generally of limited duration;
 - c. That may or may not involve an assembly of persons;
 - d. That may or may not require a permit under the Elk Grove Municipal Code; and
 - e. That calls attention to the city, its natural advantages, resources, enterprises, attractions, climate, facilities, business and community.

10. If any section, subsection, sentence, clause, phrase, or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Subsection B: Chapter 16.38 of the Elk Grove Municipal Code and Chapter 35 of the Elk Grove Zoning Code are hereby partially amended and /or partially repealed as necessary to be consistent with this ordinance. In the case of conflict between this ordinance and Chapter 16.38 of the Elk Grove Municipal Code and/or Chapter 35 of the Elk Grove Zoning Code, this ordinance shall prevail.

Section 5. Effective Date- Urgency Ordinance. This ordinance shall take effect immediately as an urgency ordinance. The City Council finds that the immediate passage of this ordinance is necessary for the immediate preservation of the public peace, health and safety, and the fiscal integrity of the City.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 19th day of June 2002.


MICHAEL P. LEARY, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

AYES: Leary, Cooper, Scherman,
Briggs, Soares

NOES: None

ABSTAIN: None

ABSENT: None

Effective Date: June 19, 2002