

ORDINANCE NO. 1-2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING PORTIONS OF ELK GROVE MUNICIPAL CODE TITLE 23 RELATED TO COTTAGE FOOD OPERATIONS / HOME OCCUPATIONS

WHEREAS, the proposed changes would modify Chapter 23.82 Home Occupations of Title 23, Zoning of the Elk Grove Municipal Code related to cottage food operations and other permit requirements; and

WHEREAS, the proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Division 6, Chapter 3 (State CEQA Guidelines); and

WHEREAS, the approval of these amendments does not approve any development project.

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 the Elk Grove Municipal Code (EGMC) Title 23 (Zoning) to allow cottage food operations in residential neighborhoods and zoning districts through the City's Home Occupation provisions consistent with the requirements of State law. In addition, the proposed amendment would delete the requirements for both a home occupation permit and business license consistent with Elk Grove City Council direction. Additionally, a new definition of "Cottage Food Operations" would be added.

Section 2: Findings.

General Plan Consistency

Finding: The proposed amendments to Title 23 are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed amendments to Title 23 (Zoning) of the Elk Grove Municipal Code include minor amendments to Chapter 23.82 to allow cottage food operations in residential neighborhoods and zoning districts consistent with the requirements of State law. In addition, the proposed amendment would delete the requirements for both a home occupation permit and business license consistent with Elk Grove City Council direction. These changes are consistent with General Plan policy ED-1, which strives to establish a balanced mix of commercial, office, and industrial businesses in the City to ensure a variety of employment and business opportunities. The amendments are also consistent with Policy ED-6 to promote policies, programs and services that support a diverse local economy providing a range of goods and services, support existing local businesses, and that encourage new, independent business ventures.

Section 3. Amendments to Chapter 23.82 – Home Occupations

EGMC Chapter 23.82 is amended as follows:

23.82.010 Purpose.

The purpose of the home occupations provision is to allow limited commercial/office uses within a residential neighborhood or zoning district consistent with established development and operational standards to ensure compatibility and to keep the integrity of the surrounding residential uses and character. To this end, these regulations minimize noise, traffic nuisances, hazardous material usage, and other possible side effects of commercial uses being conducted in residential areas.

23.82.020 Definitions.

Terms unique to this chapter are listed in EGMC Chapter 23.100 (General Definitions).

23.82.030 Permit requirements.

Home occupations are permitted in designated zoning districts as described in Division III, Zoning Districts, Allowable Land Uses, and Development Standards, of this title. No special planning permit or entitlement, including zoning clearance/plan check, shall be required for home occupations. Home occupation owners shall acquire any applicable permit or license (e.g. County health permit, Chief's operating permit, etc.) as may be required for the specific operation by Federal, State, or local regulation.

23.82.040 Development and operational standards.

All home occupations shall comply with the following development and operational standards. In addition to the performance standards herein, EGMC Section 23.82.050 lists restricted uses and EGMC Section 23.82.060 lists specific prohibited uses.

A. Storage and Display.

1. Storage, operation or display of materials, goods, supplies or equipment related to the operation of a home occupation may not be located outside the residence.

2. On-site storage of hazardous materials associated with the home occupation shall be prohibited.

3. All activities of the home occupation, including storage of inventory or products and all other equipment, fixtures, office and work space may not exceed twenty (20%) percent of the total square footage of the dwelling unit. Total square footage shall include rooms used for residential and home occupation use.

4. Products produced as a function of the home occupation shall not be displayed in any manner that would make them visible from the exterior of the dwelling unit.

B. Employees/Clients.

1. Employees may be allowed as part of the home occupation permit; however, no more than two (2) nonresidents may work from the residence or report to the home at any time.

2. The number of clients/customers that can be present at the residence shall be limited to one at any one time, and shall not exceed the maximum of eight (8) per day.

Clients/customers shall be permitted at the home occupation business location only on weekdays from 7:00 a.m. to 8:00 p.m. and on weekends from 8:00 a.m. to 6:00 p.m.

C. Vehicles/Parking. In addition to the following standards, all parking associated with the home occupation shall comply with parking regulations in EGMC Section 23.58.040, General parking regulations.

1. Commercial vehicles as defined in EGMC Section 23.100.020 may not be parked or stored on any residential property or local residential street in conjunction with a home occupation. However, one (1) vehicle with a maximum one (1) ton capacity may be retained on site of a home occupation contingent upon the existence or establishment of an additional vehicle parking space located outside of the required front and street-side side yard setback area. Such parking space shall comply with residential parking provisions. Regardless of the number of home occupations at a residence, only two (2) additional vehicles (including nonresident employee and client vehicles) shall be present at any one time. Off-street parking shall be provided for all vehicles associated with the home occupation. Additionally, no trailer used for commercial, industrial, or agricultural purposes shall be parked or stored in any residential zone except for loading or unloading services.

2. There shall be no more than one (1) commercial delivery per day, during normal business hours of 8:00 a.m. to 6:00 p.m.

D. Signs. A sign no larger than two (2 ft²) square feet shall be allowed for the home occupation other than the address of the residence.

E. Nuisances. No activity that produces noise, smoke, odor, glare, electrical interference, vibrations, or junk and rubbish discernible beyond the site shall be allowed.

F. Sales. There shall be no products sold on the premises, except as provided by the California Health and Safety Code for cottage food operations.

28.82.050 Restricted home occupations.

The following specific home occupation uses shall be permitted, subject to further limitations as follows:

A. Beauty/barbershops limited to one (1) operator only.

B. Contractors and subcontractors offices are permitted as home occupations. However, the storage of vehicles, materials and equipment not normally associated with residential uses shall be prohibited, except as provided in the RD-1, RD-2, and AR-1 through AR-10 zones.

C. Furniture repair and restoration shall be limited to one occupant of the dwelling on a part-time basis, subject to approval of the Building Inspection Department and the Fire Marshal, as applicable. There shall be no pickup or delivery at the location by the public.

D. Shoe repair, on a part-time basis, providing that no more than eight (8) visitors a day either drop off or pick up such items. No sales of any kind are permitted. The use will not be conducted in such a fashion as to constitute either a public or private nuisance.

E. Dressmaking, sewing, tailoring, contract sewing (one (1) operator).

F. Cottage Food Operations, consistent with the requirements of the California Health and Safety Code and limited to one (1) full time employee, not including a family member or household member of the cottage food operation.

23.82.060 Prohibited uses.

The following uses are expressly prohibited as home occupations:

- A. Ambulance service;
- B. Ammunition reloading, including custom reloading;
- C. Boarding house, bed and breakfast hotel, time share condominium;
- D. Carpentry, cabinetmakers;
- E. Ceramics (kiln of six (6 ft³) cubic feet or more);
- F. Health salons, gyms, dance studios, aerobic exercise studios;
- G. Medical, dental, chiropractic, or veterinary clinics;
- H. Mortician, hearse service;
- I. Palm reading, fortune telling;
- J. Private clubs;
- K. Repair, or reconditioning, of boats or recreation vehicles;
- L. Restaurants or taverns;
- M. Retail sale from site (except direct distribution, artists' originals, and as provided by the California Health and Safety Code for cottage food operations);
- N. Storage, repair or reconditioning of major household appliances, including refrigerators, freezers, clothes washers and dryers, dishwashers, stoves, heating and air conditioning equipment;
- O. Storage, repair or reconditioning of motorized vehicles or large equipment on site;
- P. Tattoo service;
- Q. Tow truck services;
- R. Veterinary uses (including boarding);
- S. Welding service (office only).

Section 4. Amendments to Chapter 23.100 – Nonconforming Uses, Buildings, and Structures

EGMC Section 23.100.020 is amended as follows:

Section 23.100.020

C. "C" Definitions

...

13. "Cottage Food Operation" means a Cottage food operation as defined in the California Health and Safety Code.

14. "Custom Home" means ...

Section 5: 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 6: 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.

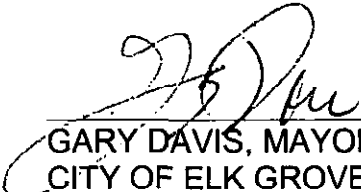
Section 7: Savings Clause.

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 8: 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: 1-2013
INTRODUCED: January 23, 2013
ADOPTED: February 13, 2013
EFFECTIVE: March 15, 2013



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: February 20, 2013

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 1-2013

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)
CITY OF ELK GROVE) ss

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 23, 2013 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 13, 2013 by the following vote:


AYES : **COUNCILMEMBERS:** *Davis, Detrick, Cooper, Hume, Trigg*

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