

## ORDINANCE NO. 07-2017

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE REPEALING ORDINANCE NO. 23-2016 ADOPTING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH ELK GROVE TOWN CENTER, LP

**WHEREAS**, on October 26, 2016, the City Council adopted Ordinance No. 23-2016, adopting the First Amendment to the Development Agreement with Elk Grove Town Center, LP.; and

**WHEREAS**, a referendum petition entitled "Referendum Against an Ordinance passed by the City Council; Ordinance No. 23-2016. An Ordinance of the City Council of the City of Elk Grove adopting the First Amendment to the Development Agreement with Elk Grove Town Center, LP.," was filed with the Office of the City Clerk on November 21, 2016 against City of Elk Grove Ordinance No. 23-2016; and

**WHEREAS**, the referendum petition was found to be sufficient and the referendum petition was certified as sufficient by the City Council of the City of Elk Grove by Resolution No. 2017-010; and

**WHEREAS**, the State of California Elections Code Section 9241 directs a legislative body receiving a certified referendum petition to either repeal the ordinance against which the petition was filed, or submit the ordinance to the voters, either at the next regular municipal election occurring not less than 88 days after the order of the legislative body, or at a special election called for the purpose, not less than 88 days after the order of the legislative body.

**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 repeal Ordinance No. 23-2016 in response to the referendum petition submitted on November 21, 2016, and certified by the City Council of the City of Elk Grove on January 11, 2017.

#### Section 2: Environmental Review/California Environmental Quality Act (CEQA).

The passage of this ordinance would reinstate the terms of a development agreement approved by Ordinance No. 29-2014, for which environmental review has already been completed under the California Environmental Quality Act ("CEQA"). Therefore, no further environmental review is required pursuant to CEQA Guideline section 15162. The environmental findings and evidence set forth in Ordinance No. 29-2014 are incorporated herein by reference. Additionally, the adoption of this ordinance, repealing Ordinance No. 23-2016, does not constitute the approval of a project under CEQA, will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment, and is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3))

### Section 3: Repeal of Ordinance No. 23-2016

The City's approval of Ordinance No. 23-2016 is hereby repealed. The Development Agreement with Elk Grove Town Center, LP for the project commonly known as The Outlet Collection at Elk Grove is not amended by Ordinance No. 23-2016 and remains as the Development Agreement adopted October 22, 2014 by Ordinance No. 29-2014.

### 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 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 7: Effective Date and Publication.

This Ordinance shall take effect on the date of its final passage by the City Council pursuant to Elections Code Section 9245, and Government Code section 36937(a), and it is scheduled for adoption at the next regular meeting of the Elk Grove City Council on February 22, 2017. 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:** 07-2017  
**INTRODUCED:** February 8, 2017  
**ADOPTED:** February 22, 2017  
**EFFECTIVE:** February 22, 2017




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STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



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JONATHAN P. HOBBS,  
CITY ATTORNEY

Signed: February 22, 2017

**CERTIFICATION  
ELK GROVE CITY COUNCIL ORDINANCE NO. 07-2017**

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 February 8, 2017 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 22, 2017 by the following vote:*


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

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

**ABSTAIN:**               **COUNCILMEMBERS:**    *Hume*

**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**