

ORDINANCE NO. 03-2024

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE SECTION 23.94.050
REGARDING SEPARATION REQUIREMENTS FOR WIRELESS FACILITIES
FOR THE
WIRELESS FACILITY UTILITY SEPARATION REQUIREMENTS
PROJECT NO: PLNG24-006**

WHEREAS, the Development Services Department of the City of Elk Grove (“City”) received an application on February 7, 2024, from Crown Castle Fiber, LLC (the “Applicant”) requesting a Zoning Code Text Amendment (the “Project”); and

WHEREAS, the City determined that the Project is subject to the California Environmental Quality Act; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on March 21, 2024, as required by law to consider all the information presented by staff, information presented by the Applicant, and public testimony presented in writing and at the meeting and voted 5-0 to recommend approval to the City Council; and

WHEREAS, the City Council held a duly-noticed public hearing on April 24, 2024, as required by law to consider all the information presented by staff, information presented by the Applicant, and public testimony presented in writing and at the meeting.

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to amend the separation requirements for wireless telecommunication facilities from overhead electrical utility lines as described in Elk Grove Municipal Code Section 23.94.050 A.7.

Section 2: (Findings)

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines sections 15183, 15301, and 15303

Evidence: The proposed Project is exempt from CEQA under CEQA Guidelines Sections 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), 15301 (Minor Alteration to Existing Facilities), and 15303 (New Construction or Conversion of Small Structures). The proposed amendment to the Elk Grove Municipal Code modifies the separation requirements for wireless telecommunication facilities from other utilities while maintaining overall safety for the community and utility providers. This action is consistent with the policies of the General Plan, for which an Environmental Impact Report (EIR) was certified (SCH # 2017062058). Additionally, small cell wireless facilities qualify as minor alterations to existing structures and as new small structures as defined in CEQA. As such, the proposed amendment qualifies for an exemption from CEQA and no further analysis is required.

General Plan

Finding: The proposed zoning amendment is consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed code amendment is consistent with the General Plan. The General Plan policies related to community infrastructure provide for maximizing the efficiency of infrastructure improvements and encouraging advanced technologies. Specifically, Goal CIF-3 states that “Elk Grove is a leader in innovative technology infrastructure,” and Policy CIF-3-4 states the City will “acknowledge and adapt to innovations in technology to facilitate infrastructure investments as appropriate.” The amendment updates the separation requirements for wireless facilities from existing utilities to maintain flexibility in the siting of the wireless facilities while ensuring safety for the public and utility operators, responding to the changing technological landscape, and how these types of facilities are designed and operated.

Section 3: Action

Elk Grove Municipal Code Section 23.94.050.A.7 is amended to read as follows:

*Additions are shown as **bold text**, deletions in ~~strikethrough~~.*
Previously adopted text that is unmodified by this amendment is represented by an ellipsis (...); see prior adopted ordinance for full text.

23.94.050 Development standards.

A. General Development Standards. Unless otherwise exempt pursuant to EGMC Section 23.94.040, Exemptions, or as otherwise provided in an agreement approved by the Elk Grove City Council pursuant to EGMC Section 23.94.035, Small cell wireless communications facilities, the following general development standards shall apply to all wireless communications facilities.

...

7. At least ten (10' 0") feet of ~~horizontal~~ clearance shall be maintained between any part of the antenna and any power lines unless the antenna is installed to be an integral part of a utility tower or facility.

...

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 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: **03-2024**
INTRODUCED: April 24, 2024
ADOPTED: May 8, 2024
EFFECTIVE: June 7, 2024



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: May 9, 2024

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 03-2024

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 April 24, 2024, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on May 8, 2024, by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Brewer, Robles, 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