

ORDINANCE NO. 03-2025

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 16.50 (FLOOD DAMAGE PREVENTION) AND CHAPTER 23.100 (GENERAL DEFINITIONS) FOR FLOODPLAIN ALLOWANCES FOR PUBLIC IMPROVEMENTS AND NON- HABITABLE STRUCTURES

WHEREAS, the City of Elk Grove (“City”) conducts periodic updates of the policies of the General Plan and the provisions of the Elk Grove Municipal Code (EGMC) to ensure compliance with current laws, changes in local policy, consistency with adopted plans and programs, changing market conditions, best practices, and to address issues or concerns with current regulations; and

WHEREAS, certain amendments to EGMC Title 16, Chapter 16.50 (Flood Damage Prevention) and Title 23, Chapter 23.100 (General Definitions) and concurrent revisions to the City’s General Plan are necessary for the development of public improvements such as trails, maintenance facilities, and other non-habitable structures within the 100-year floodplain on a case-by-case basis; and

WHEREAS, the development of non-habitable structures and public infrastructure including trails, non-habitable maintenance facilities, and similar facilities within the 100-year floodplain must result in no net increase to the water surface elevation adjacent to, downstream, and upstream of the development as determined by the City; and

WHEREAS, the City has reviewed the Project and analyzed it based upon the provisions in Section 15183 (Consistency with a General Plan, Community Plan, or Zoning) and Section 15162 (Subsequent EIRs and Negative Declarations) of Title 14 of the California Code of Regulations (State CEQA Guidelines); and

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

WHEREAS, the City Council held a duly-noticed public hearing on January 22, 2025, as required by law to consider all of the information presented by staff, and public testimony presented in writing and at the meeting.

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 Elk Grove Municipal Code Chapter 16.50 (Flood Damage Prevention) and Chapter 23.100 (General Definitions) regarding floodplain allowances to allow for the development of public improvements such as trails, maintenance facilities, and other non-habitable structures within the 100-year floodplain on a case-by-case basis.

Section 2: Findings

California Environmental Quality Act (CEQA)

Finding: No further environmental review is necessary under CEQA pursuant to State CEQA Guidelines Sections 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning) and 15162 (Subsequent EIRs and Negative Declarations).

Evidence: The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter 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.” The proposed Project is a project under CEQA.

Staff finds that no further environmental review is required under State CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan, or Zoning). State CEQA Guidelines Section 15183 (Public Resources Code §21083.3), provides that projects which are consistent with the development density established by an existing Community Plan, General Plan, or Zoning for which an environmental impact report (EIR) has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.” In February 2019, an EIR was prepared and certified by the City Council as part of the Elk Grove General Plan (SCH# 2017062058). That document provides a programmatic review of the potential impacts associated with implementation of the overall General Plan. The EIR identified that implementation of the General Plan would increase the requirements for trails and recreational facilities, which could result in impacts to the physical environment and concluded that no additional mitigation measures beyond compliance with construction-related mitigation measures identified in the EIR were required. The proposed text amendments allow for an exception for the development of public infrastructure including trails, maintenance facilities, and similar facilities as well as non-habitable structures within the 100-year floodplain on a case-by-case basis. Such exceptions must result in no net increase to the water surface elevation adjacent to, downstream, and upstream of the development as determined by the City. These changes do not result in the possibility of creating significant or cumulative effects on the environment. Future development under the proposed regulations may be subject to CEQA at that time, as, to the extent applicable, those actions would be classified as “projects” under CEQA. Future development under the proposed regulations would be subject to all construction related mitigation measures adopted by the City.

Furthermore, State CEQA Guidelines Section 15162 provides that no further review is required under CEQA when there are no substantial changes in the Project, there are no substantial changes with respect to the circumstances under which the Project is undertaken, and there is no new information of substantial importance, which was not known and could not have been known at the time of certification of the General Plan EIR. The proposed amendments are consistent with the analysis presented in the EIR and, pursuant to State CEQA Guidelines Section 15162, no subsequent analysis is required. Staff has reviewed the Project and analyzed it based upon the above provisions in Section 15162 of the State

CEQA Guidelines. The proposed text amendments would only allow for the development of public infrastructure including trails, non-habitable maintenance facilities, and similar facilities as well as non-habitable structures within the 100-year floodplain on a case-by-case basis with no net increase to the water surface elevation adjacent to, downstream, and upstream of the development. Additionally, in the case of modified bridge structures and trails, such structures shall not adversely affect the physical and/or economic use of upstream and downstream property. The Project is being undertaken pursuant to and in conformity with the approved Elk Grove General Plan. The General Plan EIR analyzed full buildout of the City based upon the land plan, development standards, and policies contained in the General Plan. Future development under the proposed regulations is subject to the General Plan Mitigation, Monitoring and Reporting Program (MMRP). Therefore, there are no substantial changes in the Project, there are no substantial changes with respect to the circumstances under which the Project is undertaken, and there is no new information of substantial importance, which was not known and could not have been known at the time of certification of the EIR, and no further environmental review is required.

No potential new impacts related to the Project have been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the General Plan EIR. No other special circumstances exist that would create a reasonable possibility that the Project will have a significant adverse effect on the environment. Therefore, the prior EIRs are sufficient to support the proposed action and pursuant to State CEQA Guidelines Sections 15162 and 15183, no further environmental review is required.

Municipal Code Amendments

Finding: The proposed amendments to the Elk Grove Municipal Code are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The Amendments to EGMC Chapter 16.50 Flood Damage Prevention are text amendments that would allow non-habitable structures and public infrastructure such as trails, non-habitable maintenance facilities, and similar equipment to be located in the 100-year floodplain on a case-by-case basis. Such exceptions must result in no net increase to the water surface elevation adjacent to, downstream, and upstream of the development as determined by the City. The proposed amendments are consistent with the policies and regulations of other nearby agencies in the Sacramento Stormwater Quality Partnership. The proposed amendments are of substantial benefit to the City as they would allow the development of public infrastructure for the benefit of Elk Grove residents. Additionally, the amendment is internally consistent with the General Plan. Therefore, there are no conflicts between the proposed changes and the proposed City's General Plan Amendments.

Section 3. Amendments to EGMC Chapter 16.50 and Chapter 23.100

EGMC Chapter 16.50 and Chapter 23.100 are amended as shown in Exhibit A, attached hereto and incorporated by reference.

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: **03-2025**
INTRODUCED: January 22, 2025
ADOPTED: February 12, 2025
EFFECTIVE: March 14, 2025



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: February 18, 2025

**Exhibit A
Floodplain Allowances for Non-Habitable Structures and Public Improvements
Municipal Code Revisions**

*Proposed changes are shown in ~~strikeout~~ (for deleted text) and underline (for added text).
An ellipsis symbol (“...”) indicates that the original text is retained.*

Elk Grove Municipal Code Chapter 16.50 Flood Damage Prevention

Section 16.50.020.N (Flood Damage Prevention, “N” Definitions) shall be amended as follows:

...

3. “~~Non-habitable accessory structures~~” means buildings and/or structures of an accessory character including, but not limited to, agricultural buildings, aircraft hangars, barns (no sleeping quarters allowed within), carports, fences, grain silos, greenhouses, livestock shelters, private garages (no sleeping quarters allowed within), retaining walls, sheds, stables, swimming pools, tanks, and towers. ~~a structure that is not designed to be lived in or otherwise occupied for long durations. Examples include, but are not limited to, garages not attached to the main structure, storage sheds, barns, carports, gazebos, patio covers, arbors, and play equipment.~~

Section 16.50.030 (Flood Damage Prevention, Administration) shall be amended as follows:

16.50.030 Administration.

...

B. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following.

1. Permit Review. Review all development permits to determine that:

...

c. The proposed development or encroachment does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood at any point within the City or would otherwise comply with the provisions of this chapter.

...

Section 16.50.060 (Flood Damage Prevention, Provisions for Flood Hazard Reduction) shall be amended as follows:

16.50.060 Provisions for flood hazard reduction.

...

D. Floodways. Since floodways are an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following additional provisions apply:

...

3. Notwithstanding subsections 1 and 2 above, the Floodplain Administrator may permit the approval of bridges, trails, drainage, and incidental non-habitable maintenance facilities if the Floodplain Administrator determines that such improvements that involve no more than one tenth (0.1) of a foot increase in the water surface elevation when the 100-year event floodwaters are fully contained within open space or other approved undeveloped areas that are protected with a floodplain easement or other protection instrument and the physical and/or economic use of upstream and downstream property will not be adversely affected.

Elk Grove Municipal Code Chapter 23.100 General Definitions

Section 23.100.020.H (“H” Definitions) shall be amended and renumbered as follows:

1. “Habitable structure” means any structure that is designed to be lived in or otherwise occupied for extended periods of time. Examples include, but are not limited to, residential units (single-family residences, apartments), commercial space, office space, or other similar areas with conditioned space.

1.2. “Home occupation sign” means...

2.3. “Homeless person” means...

3.4. “Hours of darkness” means...

Section 23.100.020.N.7 (“N” Definitions) shall be amended as follows:

...

7. “Non-habitable Structures” means buildings and/or structures of an accessory character including, but not limited to, agricultural buildings, aircraft hangars, barns (no sleeping quarters allowed within), carports, fences, grain silos, greenhouses, livestock shelters, private garages (no sleeping quarters allowed within), retaining walls, sheds, stables, swimming pools, tanks, and towers, etc.

...

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 03-2025**

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 22, 2025, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 12, 2025, by the following vote:

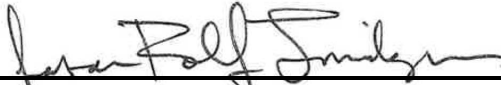
AYES: COUNCILMEMBERS: Singh-Allen, Robles, Brewer, Spease, Suen

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**