

ORDINANCE NO. 15-2019

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 1.12 RELATED TO
ADMINISTRATIVE CITATIONS (CEQA EXEMPT)**

WHEREAS, Elk Grove Municipal Code (EGMC) Chapter 1.12 authorizes the use of Administrative Citations to enforce EGMC violations; and

WHEREAS, the City Council wishes to revise its Code to allow City Code Enforcement Officers authority to issue immediate administrative citations related to the illegal cultivation of cannabis, as provided by state law.

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

Section 1: Purpose

The purpose of this ordinance is to amend Elk Grove Municipal Code Chapter 1.12 Administrative Citations.

Section 2: Amend Elk Grove Municipal Code Section 1.12.030, Continuing violations of building and zoning issues.

Elk Grove Municipal Code Section 1.12.030 is hereby amended to read as follows (new text is shown as **bold**):

Section 1.12.030
Continuing violations of building and zoning issues.

1.12.030 Continuing violations of building and zoning issues.

If a violation pertains to building, plumbing, electrical, or other structural or zoning issues that do not create an immediate danger to health or safety, the City shall provide a reasonable period of time for a person responsible for a continuing violation to correct or otherwise remedy the violation before the imposition of an administrative citation or penalty under this chapter.

Before issuing an administrative citation, the enforcement officer shall give notice to the person responsible, in accordance with EGMC Section 1.12.150. The notice shall be delivered personally or by first class certified mail, return receipt requested. The notice shall state: the date and location of the violation; the section(s) of the code violated; a description of the violation(s); the actions required to correct the violation(s); the time period allowed for correcting the violation(s); a statement that an administrative citation may be issued each day after the time for correction has passed, if correction is not completed; the amount of the fine if an administrative citation is issued; and either a copy of this chapter or an explanation of the consequences of noncompliance and a description of the hearing procedure and appeal process.

The enforcement officer shall allow at least fifteen (15) days from the date the first (1st) notice is sent for compliance with the notice. If the nature of the condition is such that compliance is very complicated or expensive, and the condition is not an immediate threat to health or safety, the enforcement officer may extend the compliance period to thirty (30), sixty (60) or ninety (90) days, depending upon the circumstances.

If the enforcement officer determines that all violations have been corrected within the time specified in the notice, no further action shall be taken.

Notwithstanding the other provisions of this section, the City may immediately assess fines for violations of EGMC Chapter 23.83 (Indoor Personal Marijuana Cultivation), if the violation exists as a result of, or to facilitate, the illegal cultivation of marijuana (as defined in Chapter 23.83.020, and to include cannabis), without first providing an opportunity to correct the violation, unless all of the following are true:

- (i) A tenant is in possession of the property that is the subject of the administrative action; and**
- (ii) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of marijuana/cannabis; and**
- (iii) The rental property owner or agent did not know the tenant was illegally cultivating marijuana/cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal marijuana/cannabis cultivation.**

Section 3: California Environmental Quality Act (CEQA)

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." Section 15061(b)(3) of the CEQA Guidelines describes the Common Sense Exemption that CEQA only applies to projects which "have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

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.

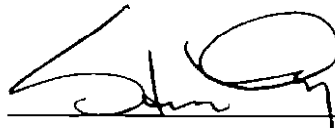
Section 6: Savings Clause

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 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 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).

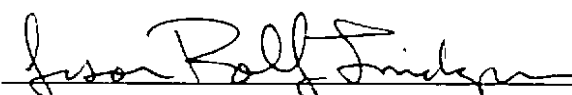
ORDINANCE: 15-2019
INTRODUCED: June 26, 2019
ADOPTED: July 10, 2019
EFFECTIVE: August 9, 2019



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:



JASON LINDGREN, CITY CLERK



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: July 18, 2019

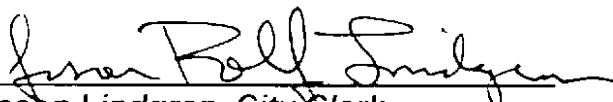
CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 15-2019

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 June 26, 2019 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on July 10, 2019 by the following vote:

AYES:	COUNCILMEMBERS:	<i>Ly, Hume, Detrick, Nguyen, Suen</i>
NOES:	COUNCILMEMBERS:	<i>None</i>
ABSTAIN:	COUNCILMEMBERS:	<i>None</i>
ABSENT:	COUNCILMEMBERS:	<i>None</i>

A summary of the ordinance was published pursuant to GC 36933(c) (1).



Jason Lindgren, City Clerk
City of Elk Grove, California