

ORDINANCE NO. 07-2022

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE TITLE 8 RELATED TO ANIMALS;
SECTION 9.08.010 FIREARMS DEFINED; AND TITLE 23 ZONING (CEQA EXEMPT)**

WHEREAS, from time to time, the City of Elk Grove (City) reviews sections of the Elk Grove Municipal Code (EGMC) and proposes updates to keep up with evolving science, emerging best practices, changing norms, or simply for clean-up consistency; and

WHEREAS, staff is proposing amendments to the EGMC that would clarify the restrictions on keeping certain animals to better align the City's regulations with best practices related to certain animals to ensure that restrictions are not unnecessarily burdensome, yet serve to maintain the quality of life for all Elk Grove residents; and

WHEREAS, Elk Grove Municipal Code (EGMC) Title 8 contains regulations related to animals, including their definitions and care, keeping, and management in the City; and

WHEREAS, EGMC Chapter 9.08 contains definitions of, and prohibitions against the use of, firearms in the City of Elk Grove; and staff is proposing an amendment to the definition of "Firearm" used in the EGMC to align with the Penal Code definition, which definition does not include air guns as Firearms, as air guns are often used by property owners in agricultural and agricultural-residential zones to protect crops and livestock; and

WHEREAS, EGMC Chapter 23.26 contains descriptions of land use classifications, some of which relate to animal-keeping; and

WHEREAS, EGMC Chapter 23.27 contains land use regulations including allowed uses and required entitlements, some of which regulate the keeping of certain types of animals; and

WHEREAS, the proposed EGMC amendments seek to clarify and strengthen the regulations related to animal keeping, care, and disposition; and amend the definition of firearm in the City of Elk Grove; and

WHEREAS, there is no foreseeable possibility that the adoption of this ordinance would have a significant effect on the environment, and its adoption is therefore exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15061(b)(3), Common Sense Exemption.

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 Elk Grove Municipal Code Title 8 Animals; Section 9.08.020 Firearm Defined; and Title 23 Zoning to reflect changes in the definitions, restrictions, and care or disposition of certain animals.

Section 2: Amend Elk Grove Municipal Code Section 8.01.020 titled Definitions.

*(All additions are shown as **bold text**, deletions in strikethrough)*

Elk Grove Municipal Code Section 8.01.020 is hereby amended to read as follows:

...

E. "E" Definitions.

...

2. "Exotic" means any animal not normally kept as a domestic or household pet, fowl, livestock, and the like, including lions, tigers, and monkeys. **Notwithstanding the foregoing, "Exotic" includes all species in Class Aves, Subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus).**

...

H. "H" Definitions.

...

3. "Household pets" means domestic animals ordinarily permitted in a place of residence, kept for company and pleasure, such as dogs, cats, domestic birds, guinea pigs, white rats, rabbits, mice, **pot-bellied pigs, pygmy goats**, and other similar animals generally considered by the public to be kept as pets, excluding fowl.

...

W. "W" Definitions.

1. "Wild animal shall mean any of the following:"

...

d. The following members of the Class Aves (birds):

- i. Order Falconiformes (including hawks, eagles, and vultures);
- ii. ~~Subdivision Ratitae (including ostriches, rheas, cassowaries, and emus);~~

...

Section 3: Amend Elk Grove Municipal Code Chapter 8.02 titled Custody, Care, and Control of Animals.

...

8.02.030 Keeping wild, exotic, and dangerous animals and reptiles.

No person shall have, keep, or maintain any wild, exotic, dangerous, nondomestic animal or reptile within the City, **except as authorized by the Elk Grove Municipal Code.**

...

8.02.050 Limitation on number of **certain household pets** ~~dogs and cats.~~

Except as otherwise allowed by this Code, it is unlawful for any person to keep or harbor more than four (4) dogs ~~or,~~ four (4) cats, **four (4) pot-bellied pigs, four (4) pygmy goats,** or **any** combination of ~~thereof both not to exceed~~ **exceeding** a total of four (4), which are over the age of four (4) months on or in any lot, premises, dwelling, building, structure, boat, or living accommodation.

...

Section 4: Amend Elk Grove Municipal Code Section 9.08.010 titled Firearms defined

9.08.010 Firearms defined.

For the purpose of this chapter, “firearms” includes any shotgun, rifle, pistol, revolver, or ~~air gun,~~ **firearm as defined by California Penal Code section 16520,** and any other weapon of similar use and design.

Section 5: Amend Elk Grove Municipal Code Section 23.26.050 titled Description of land use classifications.

Elk Grove Municipal Code Section 23.26.050 is hereby amended to read:

The following terms are used throughout this title and shall have the following descriptions:

A. “A” Allowed Use Descriptions.

...

8. “Animal husbandry” means the raising and breeding of animals or production of animal products. Typical uses include grazing, ranching, dairy farming, **and** poultry farming, ~~and beekeeping,~~ but exclude slaughterhouses, **beekeeping** and feedlot operations. This classification includes accessory agricultural buildings accessory to such uses. Animal sales, boarding, and grooming are defined separately under “animal sales and grooming.” Keeping of animals is defined separately under “animal keeping.”

9. “Animal keeping” means the care and maintenance of animals, as described below, on private property. The listing below provides a distinction between various types of animals related to allowed use provisions in this division. This classification is distinct from “animal husbandry” and “animal sales and/or grooming.”

a. “Exotic” means any animal **as defined in Elk Grove Municipal Code section 8.01.020(E)(2)** ~~not normally kept as a domestic or household pet, livestock, and the like,~~ including lions, tigers, and monkeys

...

c. "Household pets" means any animal ~~ordinarily permitted in a place of residence as defined in EGMC section 8.01.020(H)(3).~~, kept for company and pleasure, such as dogs, cats, pot-bellied pigs, pygmy goats, domestic birds, guinea pigs, white rats, rabbits, mice, and other similar animals generally considered by the public to be kept as pets, excluding fowl.

...

B. "B" Allowed Use Descriptions.

...

4. "Beekeeping" means the maintenance of honeybees and hives including production of beeswax, honey and other edible bee products. Beekeeping must be performed within the standards contained in this code.

5 4. "Broadcasting and recording studios" means commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings. Does not include transmission and receiving apparatus such as antennas and towers, which are under the definition of "telecommunications facility."

6 5. "Building materials stores and yards" means retail establishments selling lumber and other large building materials, where most display and sales occur indoors. Includes paint, wallpaper, glass, and fixtures. Includes stores selling to the general public, even if contractor sales account for a major proportion of total sales. Includes incidental retail ready-mix concrete operations, except where excluded by a specific zoning district. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "wholesaling and distribution."

Hardware stores are listed in the definition of "retail, general," even if they sell some building materials.

7 6. "Bus and transit shelter" means a small structure designed for the protection and/or convenience of waiting transit passengers that has a roof and usually two (2) or three (3) sides.

8 7. "Business support services" means establishments primarily within buildings, providing other businesses with services including maintenance, repair and service, testing, rental, etc.; also includes: blueprinting business; equipment repair services (except vehicle repair, see "vehicle services"); commercial art and design (production); computer-related services (rental, repair); copying, quick printing, and blueprinting services (other than those defined as "printing and publishing"); equipment rental businesses within buildings (rental yards are "equipment sales and rental"); film processing laboratories; heavy equipment repair services where repair occurs on the client site; janitorial services; mail advertising services (reproduction and shipping); mailbox services; other "heavy service" business services; outdoor advertising services; photocopying and photofinishing; protective services (other than office-related); soils and materials testing laboratories; and window cleaning.

...

O. "O" Allowed Use Descriptions.

...

5. "Outdoor commercial recreation" means a facility for various outdoor participant sports and types of recreation where a fee is normally charged for use, including but not limited to amphitheaters, amusement and theme parks, golf driving ranges, health and athletic club outdoor facilities, miniature golf courses, skateboard parks, stadiums and coliseums, swim and tennis clubs, tennis courts, water slides, and zoos. **Notwithstanding Section 8.02.030, the keeping of wild, exotic, dangerous, nondomestic animals and reptiles shall be permitted in zoos and aquariums.**

...

Notes to Table 23.27-1

...

Notes that pertain to the agricultural zoning districts:

...

9. Only Class Aves, Subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus) may be kept. All other exotic animals are prohibited.

10. Household Pets. Keeping of any combination of five (5) or more dogs, cats, pot-bellied pigs, or pygmy goats over the age of four (4) months on or in any lot, premises, dwelling, building, structure, boat, or living accommodation is considered a kennel for this title. See EGMC Section 8.02.050 for restrictions on the number of animals allowed.

Notes that pertain to the residential zoning districts:

...

3. The following restrictions apply to the keeping of animals in traditional residential zoning districts (see definition of animal keeping for category descriptions):

~~a. Exotic. All exotic animals shall be kept and maintained a minimum distance of forty (40' 0") feet from any property line unless contained within the dwelling.~~

~~a.b.~~ Fowl, limited to chickens only, may only be kept on residential property when consistent with the following:

...

~~b.e.~~ Household Pets. Keeping of any combination of five (5) or more dogs, cats, pot-bellied pigs, or pygmy goats over the age of four (4) months on or in any lot, premises, dwelling, building, structure, boat, or living accommodation cats and dogs is considered a kennel for this title. See EGMC Section 8.02.050 for restrictions on the number of animals allowed.

~~c. d.~~ Livestock. Two (2) livestock animals may be permitted for each half (1/2) acre of land. All livestock shall be kept and maintained a minimum distance of forty (40' 0") feet from any property line and a minimum distance of seventy-five (75' 0") feet from any residential dwelling **on a neighboring parcel.**

Section 7: California Environmental Quality Act (CEQA).

Finding: The Project is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

Evidence 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."

(CEQA Guidelines, § 15378.) The proposed Project includes discretionary amendments to the EGMC and is a project under CEQA; but it is exempt from CEQA review as set forth below.

CEQA Guidelines Section 15061(b)(3) (the “common sense exemption”) states that a project is exempt from CEQA “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 approval of the code amendments discussed herein does not approve any physical development project. The EGMC amendments would clarify the types of activities the City finds consistent with the “Assembly Uses” land use classification as well as clarify that these activities are not solely held by organizations identified in the current language. Future projects submitted and reviewed under the Assembly Use category will be subject to project specific CEQA review. Therefore, the Project would not result in a direct or indirect physical change in the environment, and it is exempt from further CEQA review under Section 15061(b)(3).

Section 8: 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 9: 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 10: 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 11: Effective Date and Publication

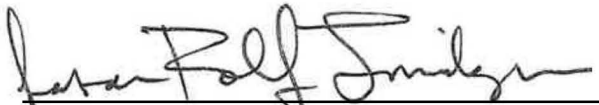
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: **07-2022**
INTRODUCED: March 9, 2022
ADOPTED: April 13, 2022
EFFECTIVE: May 13, 2022



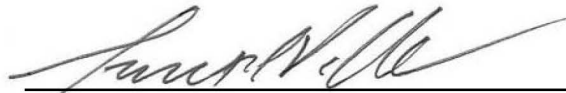
BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: April 26, 2022

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 07-2022

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 March 9, 2022, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on April 13, 2022, by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Suen, Hume, Spease, Nguyen*

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