

ORDINANCE NO. 21-2012

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING PORTIONS OF ELK GROVE MUNICIPAL CODE TITLE 1,
TITLE 2, TITLE 7, AND TITLE 23 TO DESIGNATE APPOINTMENT
AUTHORITY TO BOARDS, COMMISSIONS, AND COMMITTEES
TO THE DIRECTLY ELECTED MAYOR**

WHEREAS, on July 1, 2000 the City of Elk Grove incorporated as a General Law City; and

WHEREAS, on December 8, 2010 the City Council adopted Resolution No. 2010-249 reciting the facts of the General Municipal Election held on November 2, 2010, and confirmed that Measure K, creating the elective office of Mayor in accordance with Article 3 (commencing with Section 34900) of Chapter 4 of Part 1 of Division 2 of Title 4 of the Government Code, was approved by a majority of the voters; and

WHEREAS, the office of the Mayor will be decided by the voters at the General Municipal Election to be held on November 6, 2012; and

WHEREAS, pursuant to Government Code 40605, the directly elected mayor of a General Law city, with the approval of the city council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute; and

WHEREAS, currently numerous City boards, commissions, and committees designate appointments either by vote of the City Council or by individual Council Members, with the authority established through resolutions or codified in the Elk Grove Municipal Code; and

WHEREAS, various sections of EGMC Titles require amendment to clarify the appointment authority to boards, commissions, and committees to the mayor.

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 the Elk Grove Municipal Code (EGMC) Title 1 (General Provisions), Title 2 (Administration and Personnel), Title 7 (Historic Preservation), and Title 23 (Zoning) to clarify all appointments to boards, commissions, and committees shall be made by the Mayor, with the approval of the City Council, unless otherwise specifically provided by statute.

Section 2. Addition of definition of “Mayor” under EGMC Section 1.01.030 (Definitions and Construction)

EGMC Section 1.01.030(J) is added and the Section is renumbered accordingly as follows:

1.01.030 Definitions and construction.

...

J. “Mayor” means the Mayor of the City of Elk Grove elected in accordance with Article 3 (commencing with Section 34900) of Chapter 4 of Part 1 of Division 2 of Title 4 of the Government Code.

...

Section 3. Addition of Chapter 1.03 titled “Appointment Authority to Boards, Commissions, and Committees” to Title 1 (General Provisions)

A new EGMC Chapter 1.03 is created as follows:

Chapter 1.03

APPOINTMENT AUTHORITY TO BOARDS, COMMISSIONS, AND COMMITTEES

Sections:

1.03.010 Purpose.

1.03.020 Conflict of Appointment Authority to Boards, Commissions, and Committees with Other Resolutions of the City Council.

1.03.030 Appointment Authority to Boards, Commissions, and Committees under the Mayor.

1.03.010 Purpose.

It is the purpose of this section to clarify the authority to make appointments to City and regional boards, commissions, and committees for the City of Elk Grove.

1.03.020 Conflict of Appointment Authority to Boards, Commissions, and Committees with Other Resolutions of the City Council.

To the extent this chapter delineating appointment authority conflicts with any resolution, policy, or procedure of the City of Elk Grove, the procedures in this chapter shall control.

1.03.030 Appointment Authority to Boards, Commissions, and Committees by the Mayor.

Notwithstanding any other provision of this Code, pursuant to Government Code Section 40605, the Mayor, with the approval of the City Council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by state statute.

Section 4. Amendments to Title 2, Chapter 2.12 (Youth Commission)

EGMC Section 2.12.020 titled "Membership" is amended to remove EGMC 2.12.020(B) entirely (removing "Each member of the City Council shall appoint two (2) members to the Commission"), with the Section to be renumbered accordingly as follows:

2.12.020 Membership.

...

B. A quorum shall constitute six (6) members.

Section 5. Amendments to Title 7, Chapter 7.00 (Historic Preservation)

EGMC Section 7.00.040 titled "Historic Preservation Committee" is amended as follows:

7.00.040 Historic Preservation Committee.

...

B. Appointments of Members. The membership of the Historic Preservation Committee shall consist of seven (7) regular members and one (1) alternate member.

...

D. Vacancy. Vacancies on the Historic Preservation Committee, from whatever cause, shall be filled within sixty (60) days of the vacancy.

...

Section 6. Amendments to Title 23, Chapter 23.10 (Identification and Responsibilities of Designated Planning Agencies)

A. EGMC Section 23.10.030 titled "Responsibilities of the City Council" is amended as follows:

Section 23.10.030 Responsibilities of the City Council.

The City Council shall have the following land use responsibilities:

A. Approve appointment of members of the Planning Commission by the Mayor.

...

B. EGMC Section 23.10.050 titled "Additional provisions for the Planning Commission" is amended as follows:

Section 23.10.050 Additional provisions for the Planning Commission.

A. Membership and Term. There shall be five members of the Planning Commission. Commissioners shall not be employees of the City, but shall be residents of the City. There shall be no maximum term that may be served by an individual member.

B. Vacancies. If a member of the Commission is unable or unwilling to complete his or her service, the Mayor, with the approval of the City Council, shall appoint another person to serve as Commissioner.

...

Section 7: 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 8: 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.

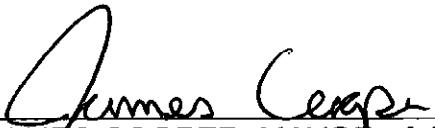
Section 9: Savings Clause.

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 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 10: 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: 21-2012
INTRODUCED: September 26, 2012
ADOPTED: October 10, 2012
EFFECTIVE: November 9, 2012



JAMES COOPER, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:



JASON LINDGREN, CITY CLERK



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: October 19, 2012

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 21-2012

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 September 26, 2012 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on October 10, 2012 by the following vote:


AYES : **COUNCILMEMBERS:** *Cooper, Hume, Davis, Detrick, Scherman*

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