



**CITY OF ELK GROVE  
CITY COUNCIL STAFF REPORT**

**AGENDA TITLE:** Consider an ordinance adding Elk Grove Municipal Code Chapter 4.38 and amending sections of Elk Grove Municipal Code Title 23 regulating short-term rentals (CEQA Exempt)

**MEETING DATE:** June 24, 2020

**PREPARED BY:** Shane Diller, Assistant Development Services Director

**DEPARTMENT HEAD:** Darren Wilson, P.E., Development Services Director

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**RECOMMENDED ACTION:**

Staff recommends that the City Council introduce and waive the full reading, by substitution of title only, an ordinance adding Elk Grove Municipal Code (EGMC) Chapter 4.38 Short-term rentals; and amending Chapters 23.26, 23.27 and 23.82 Home Occupations.

**BACKGROUND INFORMATION:**

Short-term residential rentals (commonly known by the brand names Airbnb, Vrbo, and HomeAway) are typically single-family homes, condominiums or apartments where the owner offers overnight lodging for fewer than 30 days directly to the consumer through a third-party brokerage website. Rentals can vary from a single room in a unit occupied by the owner or a primary tenant, or the rental of a full unit or home occupied solely by the renters and their guests.

When this item was previously considered by the City Council, staff presented information regarding incidents of criminal and nuisance behavior at short-term rental properties in Elk Grove, necessitating an ordinance to regulate short-term rentals.

At the May 7, 2020 Planning Commission meeting, staff presented options on regulating short-term rentals through the issuance of a Special Business License (SBL), through the issuance of a use permit, or to prohibit them altogether. The majority of the Planning Commission (3-2 vote, Murphey and Shuck opposed) expressed a desire to ensure that the business model of operating short-term rentals in Elk Grove still be allowed. The Planning Commission recommended the City Council create a SBL category of “Short-term rental” and add a new chapter to EGMC Title 4, which would contain operating requirements such as the property being owner-occupied during all rental periods. The Planning Commission expressed concerns that a Conditional Use Permit (CUP) or the lesser entitlement of a Minor CUP (MUP) was too onerous and costly for short-term rental operators. The Planning Commission also recommended lowering the existing bed and breakfast inn requirement to a MUP where a CUP is currently required pursuant to EGMC Table 23.27-1. This change for bed and breakfast inn entitlements is also recommended by staff and has been included in the proposed ordinance.

At the May 27, 2020 City Council meeting, a public hearing was held where staff presented an ordinance that would have amended the EGMC related to short-term rentals in the following ways:

1. Amend EGMC Chapter 23.26 to add the land use classifications of “long-term rental” and “short-term rental” and amend the classification of “bed and breakfast inn” to require that meals be served and an operator live on-site;
2. Amend the Land Use Table (EGMC Table 23.27-1) to require a CUP for short-term rentals and a MUP for bed and breakfast inns;
3. Amend EGMC Chapter 23.82 Home Occupations to correctly classify bed and breakfast inns and short-term rentals as restricted home occupations, as well as listing hotels and motels as prohibited home occupations.

After consideration of staff’s recommendation, Council gave direction to return with an ordinance that would create a category of special business license for short-term rentals with certain operating conditions.

## **ANALYSIS:**

The ordinance proposed in response to Council direction would add EGMC Chapter 4.38, Short-term rentals, which sets forth the requirement that short-term rentals obtain a Short-Term Rental License to operate. EGMC Chapter 4.38 contains operating standards with which short-term rentals must comply to maintain their license and a requirement that licenses be renewed periodically (every three years), allowing staff to review the previous years' operations. These operating standards include:

1. The operator must comply with all local, state, or federal laws during any and all short-term rental stays;
2. Rental stays shall be a minimum of two nights, but not more than 30 days;
3. Rental of individual rooms by separate guests is prohibited;
4. Open-invitation parties are prohibited during any and all short-term rental stays;
5. The operator must ensure payment of Transient Occupancy Tax (TOT) for short-term rental activity as required by EGMC Chapter 3.08.

The proposed operating conditions are intended to improve the City's ability to address undesirable activities related to short-term rentals that are inconsistent with the nature, character, and behavior in a residential area. The proposed ordinance represents changes that would protect the City's interests in providing for public safety, safeguarding already strained housing stock, and maintaining the residential character of neighborhoods.

The City has experienced several public safety issues with existing short-term rentals related to acts of violence, including a shooting, disturbances and fights with responding police, and the City has received complaints regarding suspicious and alleged criminal activity associated with short-term rentals. Transient use of short-term rental properties may result in issues related to noise, drug and alcohol use, trash, damage to property, and parking.

In addition to feedback received related to using a SBL to regulate short-term rentals, Council also expressed concern that the monitoring and enforcement process related to short-term rentals be more clear and decisive, escalating to revocation. This ordinance includes provisions in the proposed EGMC Chapter 4.38 that would address enforcement and license revocation capabilities.

This ordinance includes language that:

1. Applies Code Enforcement's standard enforcement process, fines, and fees to violations related to short-term rentals;
2. Creates a license suspension that would occur after a second documented violation with one year;
3. Creates a license revocation should a third documented violation occur with one year;
4. Allows the denial of new licenses to parties known to have violated laws or standards in the past;
5. Creates a periodic (every three years) renewal and opportunity for staff review of all short-term rental licenses issued.

Additionally, the ordinance provides that the City Manager may immediately revoke a license (without progressive penalties) for activities posing an immediate threat to public health, safety, and welfare (e.g. a shooting or threatened shooting). Of course, the perpetrator of any criminal activity would also be subject to separate criminal prosecution.

The proposed ordinance also incorporates the necessary Zoning Code amendments to provide consistency with, and reinforce the requirement for, a Short-Term Rental License, as well as escalate the requirement to operate a short-term rental to a MUP should a particular short-term rental have its license revoked in response to a pattern of violations.

Staff's recommendation to require a SBL to operate a short-term rental is also generally consistent with the Planning Commission's recommendation from their May 7, 2020 hearing and should ensure that short-term rentals are operated in a manner that protects the health and safety of guests, in addition to safeguarding the tranquility of residential neighborhoods.

#### **ENVIRONMENTAL ANALYSIS:**

CEQA Guidelines Section 15061(b)(3) 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 proposed EGMC amendments discussed herein does not approve any physical development project. The proposed EGMC amendments would require operators of short-term rentals obtain a specific license, subject to certain operating standards and amend the Zoning Code

sections to reflect the license requirement. The Project would not have a significant effect on the environment and is exempt from CEQA.

**ALTERNATIVE ACTION:**

The City Council could direct staff to make additional revisions to the proposed ordinance or provide alternative direction to staff. Additionally, the Council could decide to take no action at this time. Staff recommends against taking no action. In light of the recent history concerning short-term rentals, staff recommends some form of regulation of short-term rental activities.

**FISCAL IMPACT:**

Information provided by the firm Host Compliance (a service that monitors short-term rental activity) identifies approximately 150 short-term rentals operating in Elk Grove. Though staff is unable to quantify how much revenue those 150 rentals generate, based on the 2018 numbers reported by Airbnb of 10,300 guest stays and \$1.3 million in revenue for a single year, the potential annual Transient Occupancy Tax (TOT) (12% of the rent) on these number of stays could be approximately \$156,000 per year. No TOT was collected from short-term rentals prior to this year. In 2020, there are three properties registered to pay TOT tax as a short-term rental. Those properties have remitted approximately \$1,300 to date. One of the conditions of the newly proposed license will require the operator of a short-term rental to ensure payment of TOT.

At a future meeting, staff will present a resolution to require an application fee to recover the cost of processing and issuing the SBL. This fee will be established through a time and motion study estimating staff time and resources needed to perform intake, review, and processing of license applications and compliance monitoring. Any costs associated with the enforcement of short-term rentals is anticipated to be absorbed in the annual budget of the Code Enforcement division and, therefore, will not create any additional fiscal burden on the General Fund.

**ATTACHMENTS:**

1. Ordinance
  - a. Exhibit A

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
ADDING ELK GROVE MUNICIPAL CODE CHAPTER 4.38 RELATED TO SHORT-  
TERM RENTALS; AND AMENDING ELK GROVE MUNICIPAL CODE CHAPTER  
23.26 RELATED TO USE CLASSIFICATION, CHAPTER 23.27 RELATED TO  
ALLOWED USES AND REQUIRED ENTITLEMENTS, AND CHAPTER 23.82  
RELATED TO HOME OCCUPATIONS (CEQA EXEMPT)**

**WHEREAS**, the City of Elk Grove (City) wishes to define and regulate short-term rentals within the City's boundaries in order to ensure public safety and preserve the residential character and quality of life in City neighborhoods consistent with the policies set forth in the General Plan; and

**WHEREAS**, Elk Grove Municipal Code (EGMC) Title 4 regulates business licenses and special business licenses; and

**WHEREAS**, the addition of EGMC Chapter 4.38 would require a special business license to operate a short-term rental including operating restrictions, suspension and revocation conditions, and providing enforcement options; and

**WHEREAS**, EGMC Title 23 regulates land use and zoning; and

**WHEREAS**, amendments to EGMC Title 23 are required to include short-term rentals as it relates to land use classifications; allowed uses and required entitlements; and operations of home-based businesses; and

**WHEREAS**, there is no foreseeable possibility that the adoption of this ordinance would have a significant effect on the environment and it 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 ordain as follows:

The purpose of this ordinance is to add Chapter 4.38 Short-Term Rentals to the EGMC and amend EGMC Chapter 23.26 Use Classifications, Chapter 23.27 Allowed Uses and Required Entitlements, and Chapter 23.82 Home Occupations.

Section 2: Add Elk Grove Municipal Code Chapter 4.38 Short-Term Rentals.

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

Elk Grove Municipal Code Chapter 4.38 is hereby added to read as follows:

**Chapter 4.38  
SHORT-TERM RENTALS**

**Sections:**

- 4.38.010** Definitions.
- 4.38.020** Requirement for short-term rental license.
- 4.38.030** Application procedure.
- 4.38.040** Issuance and renewal of license.
- 4.38.050** Display of license.
- 4.38.060** License fee.
- 4.38.070** License nontransferable.
- 4.38.080** License violation.
- 4.38.090** Suspension or revocation of license.
- 4.38.100** Denial, suspension, and revocation – Appeals.
- 4.38.110** Enforcement.

**4.38.010 Definitions.**

As used in this chapter, the following words and phrases shall have the meanings given them in this section, unless the context clearly requires otherwise:

A. “Bed and breakfast Inn” has the same meaning as defined in Elk Grove Municipal Code (EGMC) Chapter 23.26

B. “City Manager” means the City Manager of the City of Elk Grove or his or her designees.

C. “Guest” means the person renting the short-term rental through any website facilitating short-term rentals via the internet, or the person directly negotiating lodging with the Licensee and any individuals accompanying the guest.

D. “Licensee” means any owner holding a license issued by the City pursuant to this chapter.

E. “Long-term rental” has the same meaning as defined in Elk Grove Municipal Code (EGMC) Chapter 23.26

F. “Person” means any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

G. “Owner” means a person and/or applicant with an ownership or possessory interest in real property within the City for which a license is issued under this chapter.

H. “Short-term rental” has the same meaning as defined in Elk Grove Municipal Code (EGMC) Chapter 23.26.

**I. “Short-Term Rental License” means a Short-term rental special business license issued by the City pursuant to this chapter.**

#### **4.38.020 Requirement for Short-Term Rental License.**

**A. It shall be unlawful for any person to operate a short-term rental within the City without a previously issued and effective Short-Term Rental License for each separate address at which a short-term rental would occur. A Short-Term Rental License may only be issued for a residential structure at a fixed location and address.**

**B. Nothing in this chapter shall be construed to grant any person obtaining a Short-Term Rental License any status or right other than the right to operate a short-term rental at the location in the City identified on the face of the Short-Term Rental License, all subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law.**

#### **4.38.030 Application procedure.**

**All applications for a Short-Term Rental License shall be submitted to the City Manager in the name of each owner proposing to operate a short-term rental and shall be signed by each owner or an authorized agent thereof. An owner proposing to operate a short-term rental at more than one (1) location shall submit a separate application for each location. Each application shall be submitted on a form supplied by the City Manager and shall contain, at a minimum, the following information:**

**A. The name, address, e-mail address, if any, and telephone number of each owner.**

**B. Any business name, address, and telephone number of the fixed location for which a Short-Term Rental License is sought.**

**C. Whether or not any owner has previously been issued a Short-Term Rental License pursuant to this chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.**

**D. Such other information as the City Manager deems necessary for the administration or enforcement of this chapter.**

#### **4.38.040 Issuance and renewal of license.**

**A. Upon the receipt of an application for a Short-Term Rental License and the applicable license fee, the City Manager may issue a Short-Term Rental License or its renewal unless:**

- 1. The application is incomplete or inaccurate;**

**2. The application seeks authorization for short-term rental operation at an address that appears on a Short-Term Rental License that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this chapter except this subsection shall not constitute a basis for denial of a Short-Term Rental License if either or both of the following apply:**

**a. The applicant provides the City with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subsection, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the location is presumed not to be an "arm's length transaction";**

**b. It has been more than five (5) years since the most recent Short-Term Rental License for that location was revoked; or**

**3. The City Manager has information that the applicant or his or her agents or employees has violated any local, State or Federal law for which the Short-Term Rental License or renewal of the Short-Term Rental License is sought within the preceding one (1) year period.**

**B. Unless revoked on an earlier date, all Short-Term Rental Licenses shall expire three (3) years after the date of issuance. Licensees are responsible for submitting a Short-Term Rental License renewal application with the license fee at least thirty (30) days, but not more than sixty (60) days, prior to the expiration of the current valid Short-Term Rental License. The application submitted for renewal shall be in such form and include such information as is prescribed and required by the City Manager but shall include a renewal form provided by the City, the required fee, and a copy of the Short-Term Rental License to be renewed. A Short-Term Rental License that is suspended, has been revoked, or is subject to suspension or revocation proceedings, shall not be renewed. The renewal applicant shall follow all of the procedures and provide all of the information required in EGMC Section 4.38.030. The City Manager shall process the application according to the provisions of this section.**

**C. Where the City Manager does not approve a Short-Term Rental License or renewal of a Short-Term Rental License, the City Manager will notify the applicant of the specific grounds for the denial in writing. The notice of denial will be served personally or by first class certified mail, return receipt requested, not later than ten (10) days after the date of the denial. If by mail, the notice will be placed in a sealed envelope, with postage paid, addressed to the applicant at the address as it appears on the application. The giving of notice shall be deemed complete at the time of deposit of the notice in the mail without extension of time for any reason.**

In lieu of mailing, the notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of the notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

#### **4.38.050 Display of license.**

Each Short-Term Rental License, or copy thereof, shall be prominently displayed in a publicly visible location at the licensed property.

#### **4.38.060 License fee.**

The fee for issuance and renewal of a Short-Term Rental License shall be established by resolution of the City Council and shall be in addition to the fees associated with any other license, permit and/or entitlement fee imposed by this code upon the applicant. The Short-Term Rental License fee shall be paid to the City at the time the Short-Term Rental License application is submitted.

#### **4.38.070 License nontransferable.**

A Short-Term Rental License is nontransferable. If a property at which a Short-Term Rental License was issued to operate a short-term rental is sold or transferred to any other person, the new owner must obtain a new Short-Term Rental License, pursuant to Section 4.38.030, if the new owner chooses to operate a short-term rental at that property location.

#### **4.38.080 Operating standards and conditions.**

A violation of any of the following conditions shall subject a licensee to enforcement action against the licensee, up to and including revocation:

- A. Licensee and/or any guest of the licensee shall comply with all applicable local, State, or Federal laws;
- B. Rental stays shall be a minimum of two (2) nights, but not more than thirty (30) days;
- C. Rental of individual rooms to separate guests at a single short-term rental property shall be prohibited;
- D. Open-invitation parties are prohibited during any and all short-term rental stays;
- E. Licensee shall be responsible for ensuring payment of Transient Occupancy Tax (TOT) for all short-term rental activity as required by EGMC Chapter 3.08.

#### **4.38.090 Suspension or revocation of license.**

A. In addition to any other remedy authorized by law, a Short-Term Rental License may be suspended or revoked as provided in this section if the City Manager finds that the licensee or the licensee's guest(s) have violated any of the conditions or provisions of the Short-Term Rental License or this chapter, provided, however,

that violations by a licensee at one (1) location may not be accumulated against other locations of that same licensee, nor may violations accumulated against a prior licensee at a licensed location be accumulated against a new licensee at the same licensed location.

1. Upon a finding by the City Manager of a first (1<sup>st</sup>) Short-Term Rental License violation within any one (1) year period, the licensee shall be subject to enforcement action pursuant to EGMC Section 4.38.110, including, without limitation, imposition of a fine, penalty, and/or costs, and abatement of the violation.

2. Upon a finding by the City Manager of a second (2<sup>nd</sup>) Short-Term Rental License violation within any one (1) year period, the Short-Term Rental License shall be suspended for one hundred and eighty (180) days.

3. Upon a finding by the City Manager of a third (3<sup>rd</sup>) Short Term Rental License violation within any one (1) year period, the Short-Term Rental License shall be revoked.

B. Notwithstanding subsection (A) of this section, or any other provision of this chapter, a Short-Term Rental License may be revoked if the City Manager finds that either one (1) or both of the following conditions exists:

1. One or more of the bases for denial of a Short-Term Rental License under EGMC Section 4.38.040(A) existed at the time application was made or at any time before the Short-Term Rental License was issued.

2. The information contained in the Short-Term Rental License application, including supplemental information, if any, is found to be false in any material respect.

C. Notwithstanding subsection (A) and (B) of this section, or any other provision of this chapter, the City Manager may immediately revoke a Short-Term Rental License, without imposition of a prior fine, suspension, or other penalty, where the City Manager finds that activity at the short-term rental property has posed, or will pose, an imminent threat to public health, safety, and welfare, including, without limitation, activity at the short-term rental property that would constitute a crime of moral turpitude and/or a felony under state or federal law.

D. In the event the City Manager suspends or revokes a Short-Term Rental License, written notice of the suspension or revocation will be served upon the licensee within ten (10) days of the suspension or revocation in the manner prescribed in EGMC Section 4.38.040(C). The notice will contain:

1. A brief statement of the specific grounds for such suspension or revocation;

2. A statement that the licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of EGMC Section 4.38.100, to the City Manager, within ten (10) days of the date of service of the notice; and

3. A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all right to an administrative appeal hearing, and the suspension or revocation will be final.

E. A Short-Term Rental Licensee for whom a Short-Term Rental License suspension is in effect shall cease all short-term rental operations and advertising at the address that appears on the suspended Short-Term Rental License.

F. Should a Short-Term Rental License be revoked, all short-term rental operations and advertising at the address that appears on the revoked license shall cease. Short-term rental activity at such address may only resume if a Minor Conditional Use Permit (MUP) is approved in accordance with EGMC 23.16.070. A MUP application may be filed with the City no earlier than one (1) year from the date of revocation.

#### 4.38.100 Denial, suspension, and revocation – Appeals.

A. Any applicant or licensee aggrieved by the decision of the City Manager in denying, suspending, or revoking a Short-Term Rental License may appeal the decision by submitting a written appeal pursuant to EGMC Chapters 1.11 and 4.10 following notice of denial, suspension, or revocation. The written appeal shall contain:

1. A brief statement in ordinary and concise language of the specific action appealed, together with any material facts claimed to support the contentions of the appellant;

2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the appealed action should be reversed, set aside, and/or modified;

3. The signatures of all parties named as appellants and their mailing addresses; and

4. The verification (by declaration under penalty of perjury) of at least one (1) appellant as to the truth of the facts stated in the appeal.

B. Except for a revocation of a Short-Term Rental License pursuant to EGMC section 4.38.090(C) (revocation for imminent threat to public health, safety, and welfare), any suspension or revocation of a Short-Term Rental License shall be stayed during the pendency of the appeal that is properly and timely filed pursuant to this section.

**4.38.110 Enforcement.**

**A. In addition to any other remedy, any person violating any provision of this chapter shall be guilty of an infraction for each day such violation continues.**

**B. Any violation of this chapter may be remedied by a civil action brought by the City Attorney. The City may recover reasonable attorneys' fees and costs of suit in any civil action brought by the City Attorney to remedy any violation of this chapter.**

**C. Any person violating the provisions of this chapter shall also be liable for civil penalties of no more than Two Hundred Fifty and no/100<sup>ths</sup> (\$250.00) Dollars for each day the violation continues.**

**D. Violations of this chapter are hereby declared to be public nuisances subject to abatement by the City.**

**E. In addition to criminal sanctions, civil penalties as provided in this section, and other remedies set forth in this chapter, administrative penalties of up to Five Hundred and no/100<sup>ths</sup> (\$500.00) Dollars for each violation of this chapter may be imposed against any person violating any provision of this chapter pursuant to the procedures specified in EGMC Chapters 1.12 and 16.18, or pursuant to any generally applicable provisions of the Elk Grove Municipal Code concerning administrative fines and penalties.**

Section 3: Amend Elk Grove Municipal Code Section 23.26.050, Description of land use classifications.

Elk Grove Municipal Code 23.26.050 is hereby amended to read as follows:

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

23.26.050 Description of land use classifications.

The following items are used through this title and shall have the following descriptions:

...

B. "B" Allowed Use Descriptions

...

3. "Bed and breakfast inns" means residential structures with ~~one (1) family~~ **the owner or primary long-term tenant** in permanent residence with up to five (5) bedrooms **which are rented for dwelling, lodging or sleeping purposes to transients for stays of thirty (30) days or less in exchange for consideration,** and where meals are provided subject to applicable Health Department regulations. A bed and breakfast inn with more than five (5) guest rooms is considered a hotel or motel and is included under the definition of "hotels and motels."

...

L. "L" Allowed Use Descriptions

...

**5. "Long-term rental" means residential structures rented for overnight lodging for stays of longer than thirty (30) days.**

...

S. "S" Allowed Use Descriptions

...

**2. "Short-term rental" means any residential structure, or portion of any structure, not otherwise qualifying as a bed and breakfast inn, which is rented for dwelling, lodging or sleeping purposes to transients for stays of not less than two (2) consecutive nights, and no more of than thirty (30) days in exchange for consideration. A short-term rental with more than five (5) guest rooms or suites is considered a hotel or motel and is included under the definition of "Hotels and motels."**

~~2.~~ **3.** "Single room occupancy (SRO) facilities" means multi-unit housing for very low income persons that typically consists of a single room and shared bath and also may include a shared common kitchen and common activity area. SROs could be restricted to seniors or be available to persons of all ages. Subsidized versions could be supervised by a government housing agency.

~~3.~~ **4.** "Slaughterhouse" means an establishment for the slaughter of livestock.

~~4.~~ **5.** "Smoke shops" means a retailer whose main purpose is the sale of smoking and/or tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories for off-premises consumption at a retail establishment that either devotes more than fifteen (15%) percent of its total floor area to smoking, drug, and/or tobacco paraphernalia or devotes more than a two foot by four (2' by 4') foot (two (2' 0") feet in depth maximum) section of shelf space for display of for-sale tobacco products and the sale of smoking and/or tobacco paraphernalia. Includes electronic cigarettes and electronic vapor devices.

~~5.~~ **6.** "Smoking lounge" means a business establishment that is dedicated to the smoking of tobacco, including but not limited to establishments commonly known as cigar lounges, hookah bars/cafes, tobacco clubs, or smoking parlors.

~~6.~~ **7.** "Storage, personal storage facility" means a structure or group of structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.

~~7.~~ **8.** “Storage, warehouse” means a facility for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include warehouse, storage, or mini-storage facilities offered for rent or lease to the general public (see “storage, personal storage facility”) or warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see “wholesaling and distribution”).

~~8.~~ **9.** “Storage, yards” means the storage of various materials outside of a structure other than fencing, either as an accessory or principal use.

~~9.~~**10.** “Supportive housing” means housing that is linked with on- or off-site services that assist the resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, where possible, work in the community. In accordance with Section 50675.14 of the Health and Safety Code there is no limit on the length of stay and such facilities are occupied by a target population that includes, among other populations, adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people who are:

- a. Low income having one (1) or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions; or
- b. Individuals eligible for services provided under the Lanterman Development Disabilities Services Act (Division 4.5 of the Welfare and Institutions Code).

...

Section 4: Amend Elk Grove Municipal Code Section 23.27.020 titled Allowed uses and required entitlements – Table 23.27-1.

Elk Grove Municipal Code Section 23.27.020 Table 23.27-1 is hereby amended to read as shown in Exhibit A attached hereto and incorporated herein by reference.

Section 5: Amend Elk Grove Municipal Code Section 23.82.050 titled Restricted home occupations.

Elk Grove Municipal Code Section 23.82.050 is hereby amended to read:

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

23.82.050 Restricted home occupations.

The following specific home occupation uses shall be permitted, subject to further limitations as follows:

...

**G. Short-term rentals as defined in Section 23.26.050 of this title shall only be permitted in accordance with Table 23.27-1 and Chapter 4.38.**

**H. Bed and breakfast inns, as defined in Section 23.26.050 of this title, shall only be permitted in accordance with Table 23.27-1.**

...

Section 6: Amend Elk Grove Municipal Code Section 23.82.060 titled Prohibited home occupations.

Elk Grove Municipal Code Section 23.82.060 is hereby amended to read:

*(All additions are shown as **bold** text, deletions in ~~strike through~~)*

The following uses are expressly prohibited as home occupations:

...

~~C. Boarding house, bed and breakfast hotel, time share condominium;~~

**CD.** Carpentry, cabinetmakers;

**DE.** Ceramics (kiln of six (6 ft<sup>3</sup>) cubic feet or more);

**EF.** Health salons, gyms, dance studios, aerobic exercise studios;

~~FG.~~ Medical, dental, chiropractic, or veterinary clinics;

**GH.** Mortician, hearse service;

~~H.~~ Palm reading, fortune telling;

~~I.~~ Private clubs;

**JK.** Repair, or reconditioning, of boats or recreation vehicles;

**KL.** Restaurants or taverns;

**LM.** Retail sale from site, including but not limited to firearms and retail car sales. It shall specifically exclude direct distribution, artists' originals, and food sales as provided by the California Health and Safety Code for cottage food operations;

~~MN.~~ Storage, repair or reconditioning of major household appliances, including refrigerators, freezers, clothes washers and dryers, dishwashers, stoves, heating and air conditioning equipment;

**NO.** Storage, repair or reconditioning of motorized vehicles or large equipment on site;

**OP.** Tattoo service;

**PQ.** Tow truck services;

**QR.** Veterinary uses (including boarding);

**R.S.** Welding service (office only).

## **S. Hotels and motels**

### 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) 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 require operators of short-term rentals at existing residential properties to obtain a specific license, subject to certain operating standards, and the ordinance amends zoning code sections to reflect the license requirement. The Project would not have a significant effect on the environment and is exempt from CEQA.

### 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).

INTRODUCED:  
ADOPTED:  
EFFECTIVE:

\_\_\_\_\_  
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: \_\_\_\_\_

**ATTACHMENT 1, EXHIBIT A**

*Table 23.27-1 (Allowed Uses and Required Entitlements for Base Zoning Districts) is hereby amended as follows (note, only the column titles and the rows, as shown, are amended; rows not listed are not amended; where rows are retitled they shall be reordered within that use's listing as appropriate):*

**Table 23.27-1  
Allowed Uses and Required Entitlements for Base Zoning Districts**

Land Use/Zoning District	Zoning Districts																							Specific Use Regulations		
	Agricultural					Residential					Commercial					Mixed Use		Office		Industrial			Public/Quasi-Public			
	AG-80	AG-20	AR-5/10	AR-2	AR-1	RD-1/2/3	RD-4/5/6	RD-7	RD-10/15	RD-20/25/30	LC	GC	SC	AC	C-O	VCMU	RMU	BP	MP	LI	LI/FX	HI	PR		PS	O
<b>Residential Uses</b>																										
<u>Long-Term Rental</u>	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	-	-	-	-	-	-	-	-	
<u>Short-Term Rental</u>	-	-	P (MUP) <sup>23</sup>	-	-	-	-	-	P (MUP) <sup>23</sup>	P (MUP) <sup>23</sup>	-	-	-	-	-	-	-	-	EGMC Chapter 4.38							
Bed and Breakfast Inns	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	CUP MUP	-	-	CUP MUP	CUP MUP	-	-	-	-	-	-	-	-	

Notes that pertain to the residential zoning districts:

23. Short-term rentals are permitted only with a Short-Term Rental License issued and maintained in accordance with Elk Grove Municipal Code Chapter 4.38. Should a short-term rental have its license revoked, no short-term rental activity may resume at the property until a Minor Conditional Use Permit (MUP) is obtained in accordance with EGMC Chapter 23.16.070. A MUP application may be filed with the City no earlier than one (1) year from the date of revocation of a Short Term Rental License in accordance with EGMC Chapter 4.38.

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