

ORDINANCE NO. 01-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING A ZONING TEXT AMENDMENT FOR THE OUTFRONT MEDIA BILLBOARD RELOCATION PROJECT (PLNG22-075)

WHEREAS, the Development Services Department of the City of Elk Grove (the “City”) received an application on December 3, 2021, from Outfront Media, LLC (the “Applicant”) requesting an amendment to the City’s zoning code and approval of a billboard relocation agreement (collectively, the “Project”); and

WHEREAS, the proposed Project would affect the zoning code citywide; and

WHEREAS, the Development Services Department considered the Project request pursuant to the Elk Grove General Plan, the Elk Grove Municipal Code (EGMC) Title 23 (Zoning), and all other applicable state and local regulations; and

WHEREAS, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to analyze any environmental impacts related to the Project; and

WHEREAS, the Initial Study/Mitigated Negative Declaration (IS/MND) determined that the proposed Project would not result in any environmental impacts that could not be mitigated to a less than significant level; and

WHEREAS, the Planning Commission of the City (the “Planning Commission”) held a duly-noticed public hearing on January 5, 2023, as required by law to consider all of the information presented by staff, information presented by the Applicant, and public testimony presented in writing, and voted 4-0 to recommend approval of the Project to the City Council with a recommendation to correct a minor grammatical error related to sign square footage and that relocated billboard signs be prohibited from being installed in the Rural Commercial Combining Zone (“Old Town Sheldon”) and in the Elk Grove Triangle Special Planning Area; and

WHEREAS, the City Council of the City of Elk Grove (the “City Council”) held a duly-noticed public hearing on January 25, 2023, as required by law to consider all of the information presented by staff, information presented by the Applicant, and public testimony presented in writing.

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 Chapter 23.42 (Overlay/Combining Districts) and Chapter 23.62 (Signs on Private Property) of the Elk Grove Municipal Code as shown in Exhibit A.

Section 2: Findings

This Ordinance is adopted based upon the following findings:

California Environmental Quality Act (CEQA)

Finding: The proposal will not have any significant adverse impacts on the environment and all potentially significant effects have been adequately analyzed in a Mitigated Negative Declaration that was prepared for the Project by the City. The Mitigated Negative Declaration adequately addresses all environmental issues related to the development of the subject property. The City Council has reviewed the Initial Study and Draft Mitigated Negative Declaration (IS/MND), which indicates the Outfront Media Billboard Relocation Agreement Project will not have a significant impact on the environment.

Evidence: The City prepared an IS/MND for the Outfront Media Billboard Relocation Agreement Project and mitigation measures have been developed that will reduce potential environmental impacts to less than significant levels. Preparation of a Mitigation Monitoring and Reporting Program (MMRP) is required in accordance with the City of Elk Grove regulations and State law, which is designed to ensure compliance during project implementation.

The City distributed the Notice of Intent to Adopt the MND on October 21, 2022. It was posted at the Sacramento County Clerk's office, distributed through State Clearinghouse and at the City offices, pursuant to Section 15072 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines). A 30-day review and comment period was also opened on October 21, 2022 and closed on November 20, 2022. The MND was made available to the public during this review period. The City received two written comment letters within the 30-day public review period. The comments do not alter the conclusions of the IS/MND as described in the staff report for the Project.

The IS/MND determined that the proposed Project would not result in any environmental impacts that could not be mitigated to a less than significant level. On the basis of the MND, environmental analysis, and the whole record (including the MND and any comments received on the MND), the City Council finds that there is no substantial evidence that the Project, with mitigation as provided in the MND, will have a significant adverse effect on the environment, and that the MND reflects the Council's independent judgment and analysis.

Zoning Text Amendment

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

Evidence: The proposed code amendments and associated billboard relocation agreement are consistent with the General Plan. The Project site is designated as Heavy Industrial (HI) in the City's General Plan. As described therein, Heavy Industrial uses are generally characterized by heavy industrial activities, including manufacturing, processing, fabrication, utility equipment and service yards, assembly, wholesaling, warehousing, ancillary offices, and distribution occurring inside or outside of an enclosed building. Heavy Industrial areas are generally located away from residential and other sensitive land uses in areas providing adequate access and goods movement. The proposed Project includes installation of a new digital billboard.

While the General Plan contains policies related to wayfinding signage and informational signage in historically significant areas, it does not address general commercial signage. Therefore, the Project is not contrary to any of the goals of polices adopted as part of the City's General Plan.

Section 3: Action

The City Council hereby adopts the amendments to Elk Grove Municipal Code Chapter 23.42 and Chapter 23.62 as shown in Exhibit A, attached hereto and incorporated herein by this 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: **01-2023**
INTRODUCED: January 25, 2023
ADOPTED: February 8, 2023
EFFECTIVE: March 10, 2023




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 9, 2023

EXHIBIT A

**AMENDMENTS TO ELK GROVE MUNICIPAL CODE
TITLE 23 ZONING**

(Additions are shown with underline; Deletions are shown in ~~strikethrough~~)

- I. Section 23.42.080 (*Business center district sign overlay zone (BCS)*) of the Elk Grove Municipal Code shall be amended as follows:

Section 23.42.080 Business center district sign overlay zone (BCS).

...

E. Relationship to Billboard Policy. Notwithstanding any other provisions of this title, the business center district sign overlay zone (BCS) allows for the identification of establishments located on properties that are within the business center district on common sign structures. This allowance shall not be considered a violation of the City's billboard policy as provided in EGMC Chapter 23.47 (billboard policy). The BCS Overlay Zone does not apply to Billboard Relocations, which are subject to EGMC Chapter 23.62.

- II. The following sections of Chapter 23.62 (Signs on Private Property) of the Elk Grove Municipal Code shall be amended as follows:

Section 23.62.050 Basic policies for sign regulation

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F. Billboard Policy. Except as provided in EGMC Section 23.42.080 (Business center district sign overlay zone (BCS)), new billboards, as defined herein, are prohibited. Except as provided in EGMC Section 23.42.080, the City completely prohibits the construction, erection or use of any billboards, other than those which legally exist in the City, or which has been approved by the City Council, or for which a valid permit has been issued and has not expired, as of the date on which this provision is first adopted. No permit shall be issued for any billboard which violates this policy, and the City will take immediate enforcement or abatement action against any billboard constructed or maintained in violation of this policy. In adopting this provision, the City Council affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this division. The City Council intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this division may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable. ~~This provision does not prohibit agreements to relocate presently existing, legal billboards, so long as such agreements are not contrary to State or Federal law.~~ Notwithstanding the preceding prohibition nothing in this Chapter prohibits the relocation of existing billboards pursuant to Section 23.62.180.

Section 23.62.100 Prohibited signs.

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E. Electronic readerboard signs other than time/temperature signs. However, the City Council may consider electronic readerboard signs on a case-by-case basis as part of a specific plan or special planning area application or amendment thereto. Electronic readerboard signs, if allowed by the City Council, will be limited to on-site commercial messages only and will not be permitted within three thousand five hundred (3,500) feet of each other; This provision does not prohibit the construction of new electronic readerboard billboards, including those with off-site commercial messages, where such billboards are authorized pursuant to Section 23.62.180.

Section 23.62.110 Standards for special category signs.

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E. Readerboard Signs. Readerboard signs are subject to:

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2. Electronic readerboard signs are permitted subject to the requirements of Section 23.62.100(E) and the requirements of Section 23.62.180, as applicable.

Section 23.62.130 Permitted signs by type and development characteristics.

Signs permitted within the City are regulated by sign and corresponding development type and/or zoning district. The standards for their development are described in Table 23.62-2 below. Zoning clearance (administrative plan check) is required to determine compliance with applicable provisions of this chapter. Only those signs that may be permitted are listed. The goal of these standards is to regulate permanent signs that have a commercial message so that they comply with the purpose of this chapter, as established in EGMC Section 23.62.010, Purpose and applicability. Noncommercial signs and signs that are exempt from these standards are described in EGMC Section 23.62.090, Exempt signs. Temporary signs are listed in EGMC Section 23.62.140, Temporary and special event signs. New billboards authorized pursuant to an agreement to relocate existing billboards are governed by Section 23.62.180. The following general standards apply to permanent signs regulated in this section:

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III. Section 23.62.180 of the Elk Grove Municipal Code is hereby adopted to read as follows:

Section 23.62.180 Relocated Billboards.

A. The requirements of this Section 23.62.180 shall apply to any project involving the relocation of a billboard in existence on the effective date of the ordinance codified herein. Such relocated billboards shall only be installed, constructed, or relocated in Commercial, Office, or Industrial zoning districts as defined by Title 23 of the Code. Relocated billboards shall not be located in the Rural Commercial Combining Zone or the Elk Grove Triangle Special Planning Area.

B. The installation or construction of a relocated billboard pursuant to this Section may only occur after City Council approval of a relocation agreement among the billboard operator, relevant property owner(s), and the City, and City approval of a sign permit for the billboard (see Sections 23.62.070(A) and 23.16.020).

C. All agreements governing the relocation of billboards shall include requirements that applicants adhere to all applicable federal and state laws. Nothing contained in this Chapter shall require the City approve a relocation agreement on terms that are unacceptable to the City Council, including those agreements that do not comply with federal or state law.

D. New billboards authorized pursuant to an agreement to relocate presently existing, legal billboards shall be governed by the development, maintenance, and removal standards provided in the relocation agreement. In the event of any conflict between any provision contained in an agreement subject to this Section 23.62.180 and any other provisions contained elsewhere in this Chapter 23.62, the provisions of the applicable relocation agreement shall govern.

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 01-2023

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 25, 2023, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 8, 2023, by the following vote:

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