

ORDINANCE NO. 42-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADDING CHAPTER 1.08 TO THE ELK GROVE MUNICIPAL CODE RELATING TO CODE ENFORCEMENT

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 provide general direction regarding the enforcement of the City's ordinance and is authorized by the City's police powers as set forth in the California Constitution, Article XI, Section 7.

Section 2: Adoption. The City Council hereby adds Chapter 1.08 "Enforcement of Code," to the City of Elk Grove Municipal Code, as follows:

CHAPTER 1.08

ENFORCEMENT OF CODE

Sections

- 1.08.010 Code enforcement - General.
- 1.08.020 Criminal penalties-infractions and misdemeanors.
- 1.08.030 Prosecutorial discretion.
- 1.08.040 Imposition of Penalty.
- 1.08.050 Citation procedure.
- 1.08.060 Civil remedies-Injunction.
- 1.08.070 Administrative citations and penalties.
- 1.08.080 Public nuisance abatement.

1.08.010 Code enforcement--General.

It is unlawful for a person to violate a provision, or to fail to comply with a requirement, of this Code. The City may enforce the provisions of this Code by any one or more of the following methods, at the City's discretion:

- (a) Criminal penalties, under chapter 1.04;
- (b) Civil injunction, under section 1.16.060;
- (c) Regarding land use and development, by the granting or denial of permits, the forfeiture and revocation of permits, or the recording of a notice of violation (See Title 23, Planning and Zoning, and Title 22, Subdivisions);
- (d) Administrative citations and penalties, under chapter 1.12;
- (e) Public nuisance abatement, under chapter 16.18;
- (f) Building abatement, under any of the uniform building Codes adopted by the City in Title 16, Building Regulations;
- (g) Any other lawful authority.

1.08.020 Criminal penalties--Infractions and misdemeanors.

A person who violates a provision of this Code is guilty of criminal violation (an infraction or a misdemeanor) as set forth in chapter 1.04.

1.08.030 Prosecutorial discretion.

A violation may be prosecuted by the City Attorney or the District Attorney. In any case where a violation is made a misdemeanor, the prosecuting attorney has the discretion to charge the violation as an infraction.

1.08.040 Imposition of penalty.

When the Code declares a certain crime to be punishable as an infraction or a misdemeanor, the punishment to be imposed in a particular case must be determined by the court authorized to pass sentence, within the limits prescribed for an infraction or a misdemeanor, as the case may be. At the court's request, the City shall provide to the court a recommended bail schedule to apply to those people who elect a bail forfeiture. The recommended bail for a violation may be approved by the City Council or City Attorney, or both.

1.08.050 Citation procedure.

(a) If a person is arrested for any violation of this Code and is not immediately taken before a magistrate, the citation procedures in Penal Code section 853.6 shall apply.

(b) It shall be unlawful, and a misdemeanor, for a person who is criminally cited for an infraction or a misdemeanor under this Code to refuse to sign a written promise to appear.

1.08.060 Civil remedies--Injunction.

A violation of this Code may be enforced by any civil remedy, including by a civil injunction. The City Attorney is authorized to initiate any appropriate civil action.

1.08.070 Administrative citations and penalties.

A person who violates a provision of this Code or who fails to comply with a mandatory requirement of this Code is subject to an administrative citation and penalty. The administrative citation procedures and penalties are set forth in chapter 1.12.

1.08.080 Public nuisance abatement.

Any condition caused or permitted to exist in violation of a provision of this Code is a public nuisance. The condition may be abated in accordance with the procedures set forth in chapter 1.12 or other specific abatement procedures in this Code, or in accordance with the procedures set forth in the uniform Codes adopted under Title 16 (Building Regulations) if the condition constitutes a violation of one of those Codes.

Section 3: 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.

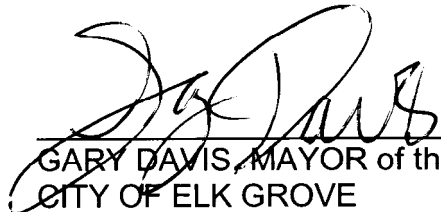
Section 4: Severability.

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 5: 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 15 days after its passage, a summary of the ordinance may be published at least five 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: 42-2008
INTRODUCED: August 27, 2008
ADOPTED: September 10, 2008
EFFECTIVE: October 10, 2008



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

Date signed: Sept. 17, 2008

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 42-2008**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Susan J. Blackston, 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 August 27, 2008 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 10, 2008 by the following vote:

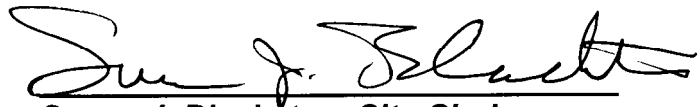
AYES : **COUNCILMEMBERS:** *Davis, Hume, Scherman, Leary, Cooper*

NOES: **COUNCILMEMBERS:** None

ABSTAIN: **COUNCILMEMBERS:** None

ABSENT: **COUNCILMEMBERS:** None

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



**Susan J. Blackston, City Clerk
City of Elk Grove, California**