

ORDINANCE NO. 4-2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE TITLE 8 RELATED TO ANIMAL CONTROL

WHEREAS, the proposed amendments will modify animal control regulations in the City of Elk Grove for consistency with California State Law including the title of those charged with the investigation and enforcement of animal code violations to Animal Control Officer; and

WHEREAS, the proposed amendments are intended to encourage pet owners to comply with pet licensing and vaccination regulations and improve compliance with these regulations; and

WHEREAS, the proposed amendments are intended to reduce the number of stray animals in the City and aid in the identification of and return of stray animals to their rightful owners; and

WHEREAS, the proposed amendments introduce new definitions for and provisions to address feral and community cats; and

WHEREAS, the proposed amendments provide for an insurance requirement for persons wishing to license and keep dogs deemed as dangerous.

NOW, THEREFORE, the City Council of the City of Elk Grove does ordain as follows:

Section 1. Amendments to Elk Grove Municipal Code Chapter 8.01 *General Provisions*

GENERAL PROVISIONS

- 8.01.010 Purpose.
- 8.01.020 Definitions.
- 8.01.030 Compliance with zoning requirements.
- 8.01.040 Applicability of State laws.
- 8.01.050 Animal Control Officer – Position created.
- 8.01.060 Enforcement.
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- 8.01.090 Warrants unnecessary.
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- 8.01.110 Obstructing officers unlawful.
- 8.01.120 Use of equipment to impound and firearms authorized.

- 8.01.130 Liability of City.
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- 8.01.170 Removing animal from custody of an Animal Control Officer or holding shelter without permission prohibited.
- 8.01.180 Violation.

8.01.010 Purpose.

A. The purpose of this chapter is to establish standards for the keeping of livestock and animals in a manner which will not endanger the health, peace, and safety of the citizens of the City and which will assure that the livestock, animals, fowl, and reptiles are kept in a clean and sanitary condition and not subject to suffering, cruelty, or abuse.

B. Supplemental to State law, this title shall in all respect be construed to supplement and harmonize with the provisions pertaining to the animal industry.

8.01.020 Definitions.

For the purposes of this title, the following terms, phrases, words, and their derivations shall have the meanings given in this chapter, unless the context clearly indicates or requires a different meaning:

A. "A" Definitions.

1. "Adequate water" means that a constant access to a supply of clean, fresh, potable water is provided in a sanitary manner or is provided at regular intervals for the species; never, however, to exceed twenty-four (24) hours at any interval.

2. "Ambient temperature" means that temperature immediately surrounding the animal.

3. "Animal" includes birds, cats, dogs, fishes, fowl, rabbits, reptiles, equine, and bovine and the like, and all other nonhuman mammals.

4. "Animal Control Officer" means the Animal Control Officer or any other person authorized to enforce the provisions of this title.

5. "Animal shelter" means the Sacramento Society for the Prevention of Cruelty to Animals (SSPCA) shelter or any other facility designated by action of the City Council of the City of Elk Grove for the purpose of impounding and caring for all animals found in violation of this chapter, or surrendered to the City by their owners, and shall be a facility devoted to the welfare, protection, and humane treatment of all animals.

6. "At large" shall mean:

a. General. The presence of any animal when it is off the premises of its owner and not restrained by a leash or tether under the control of a person physically capable of retaining control of the animal, or when the animal is on the premises of its owner and not restrained by a leash, tether, fence, or other adequate enclosure sufficient to prevent ingress and egress of the animal or not under the control and/or the immediate presence of its owner;

b. For the purposes of this provision, "at large" shall mean outside a house, vehicle, or other enclosure adequate to prevent male dogs gaining access to the female dog.

B. "B" Definitions.

1. "Butcher" means bleeding, eviscerating, skinning, splitting, cutting, or carving the body or any portion of the body of an animal.

C. "C" Definitions.

1. "Cat" means any member of the feline species (*Felis Catus*) customarily confined or cultivated by man as a pet.

2. "Commerical transaction" shall mean a bargained for exchange for consideration.

3. "Community cat" shall mean a cat whose needs are indirectly supplied by humans. Community cats live in a shelter provided by human habitation (e.g. industrial sites or farm sheds), and may acquire much of their food by scavenging (e.g. rubbish tip sites, feeding by residents).

4. "Coop" means a covered enclosure for the shelter of fowl.

D. "D" Definitions.

1. "Dog" means any member of the canine species (*Canis Familiaris*) customarily confined or cultivated by man as a pet, but excludes other members of the family *Canidae*.

2. "Domestic animal" includes dogs, cats, and birds, as well as horses, donkeys, mules, burros, cattle, sheep, goats, swine, rabbits, and fowl commonly kept or raised as farm or livestock animals.

3. "Domestic bird" includes budgies, canaries, cardinals, cockatiels, cockatoos, conures, finches, lorries, lorikeets, lovebirds, macaws, parakeets, parrots, sparrows, toucans, and weavers.

E. "E" Definitions.

1. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that involves anesthesia, produced by an agent which causes the painless loss of consciousness and death during such loss of consciousness by injection.

2. "Exotic" means any animal not normally kept as a domestic or household pet, fowl, livestock, and the like, including lions, tigers, and monkeys.

F. "F" Definitions.

1. "Feral cat" shall mean a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is not socialized to people.

2. "Feral cat colony" or "colony" shall mean a group of cats that congregate more or less together as a unit, and although not ever cat in a colony may be feral, any cats that congregate with a colony shall be deemed to be part of it.

3. "Feral cat colony caretaker" or "colony caretaker" shall mean any person who provides food, water, shelter, and humanely traps cats within the colony

4. "Fowl" means any larger domestic bird such as a domesticated chicken, duck, goose, guinea fowl, peafowl, peacock, turkey, dove, pigeon, game bird, or similar bird intended for human consumption or for the production of eggs for human consumption.

G. Reserved for future use.

H. "H" Definitions.

1. "Harbored" means the feeding or sheltering of an animal for three (3) consecutive days or more.

2. "Horse" means an animal of the genus Equus, including horses, mules, donkeys, and burros.

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, and other similar animals generally considered by the public to be kept as pets, excluding fowl.

I. Reserved for future use.

J. Reserved for future use.

K. Reserved for future use.

L. "L" Definitions.

1. "Livestock" means an animal kept for use on a farm and includes any swine, sheep, goat, horse, cattle, equine, or bovine animal.

2. "Lot" means a single parcel of land for which a legal description is filed of record or the boundaries of which are shown on a subdivision map or record of survey filed in the office of the Sacramento County Clerk-Recorder.

M. "M" Definitions.

1. "Microchip" means the injection of an identification chip below the skin of an animal by a veterinarian, registered veterinary technician, or other qualified staff.

N. Reserved for future use.

O. "O" Definitions.

1. "Owner" means a person who owns, possesses, harbors, or controls an animal. In the case of a minor, the parents or guardians of the minor shall be deemed the owner. All adults residing at the same property address shall be presumed to be the owner of any animal owned, possessed, harbored, or controlled on the property.

2. "Ownership" means any person, keeping, harboring, controlling, having custody of, or possessing one (1) or more animals for a period of not less than seventy-two (72) hours.

P. "P" Definitions.

1. "Person" means any individual, domestic or foreign corporation, partnership, association of any kind, trust, fraternal society, or cooperative.

2. "Pet" means any animal kept for pleasure rather than utility.

3. "Physical control" means any animal confined or restrained by a leash, chain, rope, or lead by a person of size and responsibility to adequately keep control of the animal or within the real property limits of its owner.

4. "Premises" means any lot or parcel of land owned, leased, or rented by a person.

5. "Property owner" shall mean the owner of record of the real property upon which the animal is located.

6. "Public nuisance" means any animal which either:

- a. Molests passersby or passing vehicles;
- b. Attacks other animals or humans;
- c. Trespasses on school or park grounds;
- d. Is repeatedly at large, not under the custody, control, or possession of the owner, or not properly confined on the owner's property;
- e. Damages public property;
- f. Disrupts the peace by continuously and incessantly barking, howling, crying, yelping, baying, or making any other noise at any time during the day or night to the disturbance of any other person. "Continuous and incessant" is defined as frequent barking, howling, crying, yelping, baying, or any other noise of ten (10) minutes or more duration within a thirty (30) minute period; provided, that at the time of the complaint no person or persons were trespassing or threatening to trespass upon the private property of the owner or the animal was not being teased or provoked in any manner;
- g. Is allowed to run at large while in the stage of heat;
- h. Is allowed to defecate or urinate on public property or on private property without the consent of the owner.

Q. "Q" Definitions.

1. "Quarantine" means the isolation of any animal within a substantial enclosure to avoid its contact with other animals or unauthorized persons.

R. Reserved for future use.

S. "S" Definitions.

1. "Sanitize" means to make physically clean and remove and destroy to a practical minimum agents injurious to health.

2. "Service animal" shall mean any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this definition.

3. "Stall" means a covered enclosure or shelter, barn, stable, or other outbuilding for the shelter of livestock.

T. "T" Definitions

1. "TNR" shall mean trap, neuter, and return

2. "TNR program" shall mean a program in which feral and community cats are humanely trapped by the public or colony caretakers and brought to a veterinarian facility that is licensed by the State to be sterilized, vaccinated against rabies, and ear tipped. The cat is then returned to the location that is their original location in accordance with this chapter.

U. Reserved for future use.

V. "V" Definitions.

1. "Vaccination" means a protective inoculation against rabies with an anti-rabies vaccine recognized and approved by the Sacramento County Health Department.

2. "Veterinary hospital" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

W. "W" Definitions.

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

- a. Any animal described in Sections 2116 and 2118 of the California Fish and Game Code;
- b. Any animal described in any addition to Section 2118 of the Fish and Game Code, by regulation of the Fish and Game Commission as provided in Section 2118 (j and k);
- c. The following members of the Class Reptilia:
 - i. Order Ophidia (including racers, boas, water snakes, and pythons) over eight (8' 0") feet in length;
 - ii. Order Loricata (including alligators, caymans, and crocodiles) over three (3' 0") feet in length;
 - iii. Order Sauria (excepting iguanas) over three (3' 0") feet in length;
- 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);
- e. The following members of the Class Mammalia:
 - i. Order Carnivora, expressly excepting the domestic dog (*Canis Familiaris*) and the domestic cat (*Felis Catus*), but including the family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars) and the family Canidae (such as wolves, dingos, coyotes, and jackals);
 - ii. Order Marsupialia (such as kangaroos and opossums);
 - iii. Order Chiroptera (bats);
 - iv. Order Edentata (such as sloths, anteaters, and armadillos);
 - v. Order Proboscidea (elephants);
 - vi. Order Primata (including monkeys, chimpanzees, and gorillas);
 - vii. Order Ungulata (including antelope, deer, and bison);
 - viii. Genus *llama*, Genus *camelus*;
- f. Any nondomestic species when kept, maintained, or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings, or to the property of human beings;
- g. Any hybrid animal which is genetically twenty (20%) percent or more part wild animal and eighty (80%) percent or less domestic animal and is capable of transmitting rabies, except livestock hybrids, and for which no rabies prophylaxis is recognized or authorized by the State.
- h. A dangerous animal over which the owner has evidenced a failure to maintain control.

X. Reserved for future use.

Y. Reserved for future use

Z. Reserved for future use.

8.01.030 Compliance with zoning requirements.

Notwithstanding any other provisions of this title, it is unlawful for any person to keep or maintain or cause to be kept or maintained any animal, unless the keeping of such is permitted in the particular district as provided in the Zoning Code.

8.01.040 Applicability of State laws.

Notwithstanding the provisions of this title, the provisions of the Health and Safety Code, the Penal Code, and the Administrative Code of the State relating to animal health, control and care, and rabies control shall apply when such provisions are more stringent than the provisions of this title.

8.01.050 Animal Control Officer – Position created.

The position of Animal Control Officer shall be created and shall be under the direction of the Chief of Police or a designee. An Animal Control Officer is designated as the person responsible for the impounding of animals within the City. Nothing in this title shall prevent the City from undertaking any or all of the duties of the public shelter and/or any animal control services as defined herein.

8.01.060 Enforcement.

The Chief of Police, an Animal Control Officer or designee are empowered, and it shall be their duty, to enforce the provisions of this title.

8.01.070 Authority.

Subject to the provisions of Section 1822.50, et seq., of the California Code of Civil Procedure, the Animal Control Officer, or any person whose duty it is to enforce the provisions of this title, may at any reasonable time enter upon any premises for the purpose of inspection upon reasonable cause to believe there is a violation of any provision of this title or any law of the State relating to the care, treatment, control or prevention of cruelty to animals.

8.01.080 Entering on private property.

The enforcing authority shall have the right, and is hereby authorized and empowered, to enter upon private property for the purpose of enforcing the provisions of this title or for other purposes consistent therewith. The enforcing authority shall be given prompt access upon oral notification to the responsible person and upon exhibiting suitable evidence of his or her identity and authority; provided, however, except in an emergency, a warrant issued pursuant to Part 3 of Title 13 (Sections 1822.50 through 1822.57, inclusive) of the Code of Civil Procedure of the State, or its subsequent counterparts, shall first be secured when entry or access thereto is denied. Refusal to admit such members when a warrant is not required shall be a misdemeanor. Neither an Animal Control Officer nor the City shall be liable for any damage from any reasonable entry.

8.01.090 Warrants unnecessary.

An Animal Control Officer may enter upon private property without a warrant for the following purposes:

A. When he or she has the express permission of the owner or occupant of the premises;

B. When he or she has probable cause to believe that any rabid, injured, sick, abandoned, or uncared for animal is present;

C. When in pursuit of any animal:

1. When such animal is unlicensed;

2. Where such animal has been running at large upon any highway or road or other public property;

3. When such animal has been trespassing on private property, and the owner or occupant of such property has requested that such animal be apprehended;

D. When he or she has probable cause to believe that there exists in any building or upon any premises or property any condition which may be in violation of this title.

8.01.100 Authority to arrest and to issue notices to appear.

Pursuant to the provisions of Sections 836.5 and 830.9 of the California Penal Code, an Animal Control Officer shall have the power and duty pursuant to this title to investigate complaints of violations of any provisions of this title, and may arrest a person without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed an infraction or a misdemeanor in his or her presence, which is a violation of this title, and may issue a citation to such person to appear in court to answer to such charges.

8.01.110 Obstructing officers unlawful.

It is unlawful and shall be a misdemeanor for any person to willfully resist, delay, or obstruct an Animal Control Officer in the discharge or attempt to discharge any duty of his or her office.

8.01.120 Use of equipment to impound and firearms authorized.

In performance of his or her duties, an Animal Control Officer shall have the authority to employ the use of a tranquilizer gun, taser, firearm, pepper spray, direct stop spray and any animal control equipment or device in common use within the State, necessary to take up and impound an animal.

8.01.130 Liability of City.

No liability shall be incurred by the City for the disposition of any animal made pursuant to the provisions of this title.

8.01.140 Animal service fees.

Fees will be charged for animal services and shall be established from time to time by resolution of the City Council.

8.01.150 Mutual aid authority.

An Animal Control Officer, upon receiving a request for assistance from another Animal Control Officer, another animal control department, peace officer or public official, or having requested assistance from another animal control department, shall be empowered to enforce all State, City, County or municipal codes and/or chapters which are related to his or her field of enforcement in that jurisdiction.

8.01.160 Returning animals to known owners.

When any animal is seized, and its ownership is known to an Animal Control Officer, such animal need not be impounded, but the Officer, at his or her discretion, may return it to its owners and cite the owner of the animal to appear in court to answer to charges of violations of the provisions of this title.

8.01.170 Removing animal from custody of an Animal Control Officer or holding shelter without permission prohibited.

No person shall remove any animal from the custody of an Animal Control Officer or from a City holding shelter or vehicle without permission from an Animal Control Officer. Violation of this provision constitutes a misdemeanor.

8.01.180 Violation.

Violations of this title shall be enforced pursuant to the provisions of EGMC Chapter 1.04.

Section 2. Amendments to Elk Grove Municipal Code Chapter 8.02 Custody, Care, and Control of Animals

CUSTODY, CARE, AND CONTROL OF ANIMALS

- 8.02.010 Animal care.
- 8.02.020 Reserved.
- 8.02.030 Keeping wild, exotic, and dangerous animals and reptiles.
- 8.02.040 Snakes.
- 8.02.050 Limitation on number of dogs and cats.
- 8.02.060 Dogs running at large prohibited.
- 8.02.070 Impoundment of dogs running at large.
- 8.02.080 Control or containment.
- 8.02.090 Reserved.
- 8.02.100 Confinement of puppies.
- 8.02.110 Dogs and other animals in vehicles.
- 8.02.120 Dogs prohibited in food establishments.
- 8.02.130 Killing or butchering within residential areas prohibited.
- 8.02.140 Reserved.
- 8.02.150 Staking animals.
- 8.02.160 Cage and pen requirements.
- 8.02.170 Sanitary enclosures.
- 8.02.180 Animals designated as public nuisances prohibited – Abatement procedures.
- 8.02.190 Sale of animals for experimentation.
- 8.02.200 Sales or gifts of animals.
- 8.02.210 Reserved.
- 8.02.220 Reserved.
- 8.02.230 Sale of puppies and kittens.
- 8.02.240 Advertisements for sale and transfer of dogs and cats.

8.02.010 Animal care.

A. No owner shall fail to provide his or her animals with adequate feed and water, proper, clean, and sanitary shelter, protection from the weather and veterinary care when needed to prevent suffering. The humane care and treatment of all animals shall be maintained at all times.

B. Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope or chain, the tether shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food and water. Violation of this provision constitutes a misdemeanor.

8.02.020 Reserved.

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.

8.02.040 Snakes.

It shall be unlawful for any person to own and keep within the City any snake that is more than eight (8' 0") feet in length.

8.02.050 Limitation on number of dogs and cats.

It is unlawful for any person to keep or harbor more than four (4) dogs or four (4) cats or a combination of both not to exceed 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.

8.02.060 Dog running at large prohibited.

No person owning any dog, or having the care, custody, control, or possession of any dog shall suffer, allow, or permit such dog to run, be, or remain at large on any public street, road, alley, park, square, school, or other public place or upon any private property other than the property of the owner or custodian of such dog without the consent of the owner of such property, within the corporate limits of the City; and all dogs may be deemed running at large within the meaning of this section unless tied or restrained by chain, strap or cord, not to exceed six (6' 0") feet in length, attached to their collars and actually held by some person, or staked away from the public walkway or thoroughfare. Any such restraining device shall be of sufficient strength as to prevent being broken, severed, or otherwise rendered ineffective by the weight and/or strength of the dog; and every dog found running at large in violation of the provisions of this section shall be immediately seized and impounded. Upon the second (2nd) impoundment for running at large the animal shall be required to be spayed/neutered. The cost will be paid for by the owner of the animal. For purposes of this section, any dog in or upon any vehicle shall be deemed to be on the premises of the operator thereof. Violation of this provision shall constitute an infraction which shall be enforced pursuant to the provision of EGMC 1.04.

8.02.070 Impoundment of dogs running at large.

An Animal Control Officer may seize and impound every dog found running at large or nuisance animals found to be in violation of this title. Those animals seized will be impounded at the animal shelter and confined there in a humane manner.

8.02.080 Control or containment.

No person owning or having care, custody, control, or possession of any dog shall allow the dog to remain outside of a secure building or dwelling on the premises of the person unless the dog is within a fenced enclosure which is adequate to contain the dog, or unless the dog is securely tethered (for no longer than two (2) hours within a twenty-four (24) hour period) so as to prevent the dog from leaving the premises at will. Any dog so tethered shall be secured in such a manner as to be unable to cross the property line of such premises and shall further be restrained from entering onto any sidewalk, street, road or other such place designated for the use of the public.

8.02.090 Reserved.

8.02.100 Confinement of puppies.

All dogs under four (4) months of age shall be confined to the premises of, or kept under physical restraint by the owner, keeper, or harbinger.

8.02.110 Dogs and other animals in vehicles.

A dog or any other animal in or upon a vehicle is deemed to be upon the property of the operator of such vehicle. No dog, except a dog assisting a peace officer engaged in law enforcement duties, or any other animal shall be transported on any public thoroughfare in any vehicle unless such dog or animal is totally enclosed within such vehicle, within a secured container carried upon such vehicle, or securely cross-tethered to such vehicle in such a way as to prevent a falling out of or off such vehicle, and to prevent injury to the animal.

8.02.120 Dogs prohibited in food establishments.

No person shall allow, permit or take any dog (except service assistant dogs or dogs used by law enforcement officers) whether loose, on leash or in arms, into any restaurant, grocery store, farmers market, meat market, fruit store or food establishment of any kind in the City, except for service assistant dogs, which may be lawfully taken into any food establishment of the City unless prohibited by the *management thereof*.

8.02.130 Killing or butchering within residential areas prohibited.

No person shall kill or butcher any animal on any property with a residential zoning designation.

8.02.140 Reserved.

8.02.150 Staking animals.

No person shall tie, hitch, or stake a horse, cow, sheep, hog, or any other animal upon, in, or along any public highway in this City so that the animal can go upon or across the used or traveled part of the highway or any portion of the used or traveled

part of the highway. The animal cannot provide for a public nuisance or be a threat or danger to public safety.

8.02.160 Cage and pen requirements.

No person shall keep or maintain any live animal in a cage, coop, hutch, pen, yard or space which is less than three (3) times as large in floor space and twice (2) the height as the total size of all live animals which may be kept therein, and which is not of sufficient height to permit each animal to stand in a natural erect position. This shall not preclude a veterinarian, any person(s) engaged in showing animals, or animal groomer from temporarily confining an animal in a smaller container for medical, showing or grooming purposes. Violation of this provision constitutes a misdemeanor.

8.02.170 Sanitary enclosures.

A. Every person keeping any animal shall at all times keep cages, coops, runs, pasture, or other enclosures wherein such animal is kept in a clean and sanitary condition, and shall remove excreta and manure there from every day, or as often as is necessary so as not to become a nuisance to any person in the neighborhood.

B. No person shall at any time maintain any lot or other premises, or any portion thereof, in the City, upon which any animal is kept in an unsanitary condition. No person shall maintain any such lot or other premises, or portion thereof, upon which any animal is kept, in such condition as to cause the same to be infested with flies or insects or to create any noxious or offensive odors.

8.02.180 Animals designated as public nuisances prohibited – Abatement procedures.

A. Public Nuisance Prohibited. It is unlawful for any person to keep, have upon premises owned, occupied, or controlled by him or her within the City, any animal found to be a public nuisance as defined by this title.

B. Public Nuisance Abatement.

1. Whenever an Animal Control Officer has reasonable cause to believe that a public nuisance, as defined in this section, exists, an Animal Control Officer may conduct an investigation of such alleged nuisance.

2. If, upon such investigation, an Animal Control Officer determines that a nuisance does not exist, no further action shall be taken. If the complaining party wishes to pursue the matter, he or she may pursue such other remedies as provided by law.

C. Violation. Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits, or allows a public nuisance to exist thereon, after reasonable notice in writing from an Animal Control Officer, District Attorney, City Attorney or prosecuting attorney to remove, discontinue or abate the same has been served upon such person which shall be punishable pursuant to EGMC Chapter 1.04. The existence of such nuisance of each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is the duty of the Animal Control Officer or the City Attorney to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated.

8.02.190 Sale of animals for experimentation.

Neither an Animal Control Officer nor anyone in his or her employ shall knowingly sell or give any impounded animal to any person, firm, corporation, association, or school for the purpose of animal experimentation. Violation of this provision constitutes a misdemeanor.

8.02.200 Sales or gifts of animals.

It shall be unlawful for any person to: 1) sell or give away as a part of a commercial transaction, a live animal on any street, highway, public right-of-way, parking lot, carnival, or boardwalk; or 2) display or offer for sale, or display or offer to give away as part of a commercial transaction, a live animal if the act of selling or giving away the live animal is to occur on any street, highway, public right-of-way, parking lot, carnival, or boardwalk.

8.02.210 Reserved.

8.02.220 Reserved.

8.02.230 Sale of puppies and kittens.

A. 1. Except as otherwise authorized under any other provision of law, it shall be unlawful for any person to sell one (1) or more puppy or kitten under eight (8) weeks of age, unless, prior to any physical transfer of the puppy or kitten from the seller to the purchaser, the puppy or kitten is approved for sale, as evidenced by written documentation from a veterinarian licensed to practice in California.

2. For the purposes of this section, the sale of a puppy or kitten shall not be considered complete, and thereby subject to the requirements and penalties of this section, unless and until the seller physically transfers the puppy or kitten to the purchaser.

B. 1. Any person who violates this section shall be guilty of a misdemeanor.

2. With respect to the sale of two (2) or more puppies or kittens in violation of this section, each puppy or kitten unlawfully sold shall represent a separate offense under this section.

C. This section shall not apply to any of the following:

1. An organization, as defined in Section 501(c)(3) of the Internal Revenue Code, or any other organization that provides, or contracts to provide, services as a public animal sheltering agency.

2. A pet dealer as defined under Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code.

3. A public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group regulated under Division 14 (commencing with Section 30501) of the Food and Agricultural Code.

8.02.240 Advertisements for sale and transfer of dogs and cats.

A. Any person who advertises to the public the availability of any dog or cat for sale or transfer, whether for compensation or otherwise, shall prominently display the license number as described in EGMC Section 8.03.010 in any such advertisement except as provided in subsection (A)(3) of this section.

1. If the person is selling a litter of puppies and/or kittens under the age of four (4) months, the license number of the animal who was bred must be displayed.

2. If the person is selling a dog or cat over the age of four (4) months, the license number of the animal who is being sold or transferred must be displayed.

3. If the person is selling a puppy or kitten under the age of four (4) months, the person selling the puppy or kitten shall disclose upon request to the new owner or the Department the name and address of the animal's original owner.

B. The dog or cat license holder must provide the dog or cat license number to any person who purchases or receives any dog or cat from the license holder and include the license number on any receipt of sale or transfer document. If the animal being sold or transferred is a locally bred puppy or kitten under the age of four (4) months, the license holder must provide the license number of the animal who was bred on any receipt of sale or transfer document. If the puppy or kitten was bred from an animal residing outside the City's jurisdictional boundaries, then the person selling the animal shall provide the name and address of the source of such dog or cat and any other pertinent information required by an Animal-Control Officer.

C. No person shall present any dog or cat for sale or transfer, whether for compensation or otherwise, in any public place. The term "public place" shall include but not be limited to streets, highways, sidewalks, carnivals, flea markets, swap meets, outdoor markets, boardwalks, and areas in front of commercial establishments.

D. No person shall give away any dog or cat as a prize or as an inducement to enter into any contest, lottery, drawing, game, or competition.

E. No person shall give away any dog or cat as an inducement to enter a place of business, or to enter into a business arrangement.

F. A commercial establishment selling locally bred dogs or cats on the premises shall prominently display the license number(s) of the dogs and/or cats that are sold in said establishment and any other pertinent information required by an Animal Control Officer.

1. If the commercial establishment is selling a litter of puppies and/or kittens under the age of four (4) months, the license number of the animal who was bred must be displayed.

2. If the commercial establishment is selling a dog or cat over the age of four (4) months, the license number of the animal who is being sold or transferred must be displayed.

3. If the commercial establishment is selling a puppy or kitten under the age of four (4) months, the commercial establishment shall display the source or origin of the puppy or kitten. "Source or origin" refers to where the animal came from, which would include name and address.

4. If a commercial establishment is advertising the commercial establishment itself and not a particular animal for sale or transfer, then no license number is required to be displayed in said advertisement.

G. A commercial establishment selling dogs or cats on the premises that were bred within the State of California but not within the City shall make available during regular business hours to the Department the name and address of the source of such dogs and/or cats and any other pertinent information required by an Animal Control Officer.

H. No person shall sell or transfer a dog or cat under the age of four (4) months of age that was bred outside the state without first providing the Department with a current or valid California health certificate for each animal intended to be sold or transferred

within the City and upon request provide the new owner with said California health certificate.

Section 3. Amendments to Elk Grove Municipal Code Chapter 8.03 *Animal Licensing*

ANIMAL LICENSING

- 8.03.010 License required – Fees.
- 8.03.020 Application for license.
- 8.03.030 Tagging a dog not described in application.
- 8.03.040 Collar and tag.
- 8.03.050 Duplicate tags.
- 8.03.060 Reserved.
- 8.03.070 Violation – Penalty.
- 8.03.080 Microchip required for license.

8.03.010 License required – Fees.

A. Every person owning, possessing, keeping, harboring or having custody of any dog or cat over four (4) months old shall obtain a license for each dog or cat and appropriate license fees shall be paid annually. Fees and charges shall be established from time to time by resolution of the City Council. Licenses shall be obtained within thirty (30) days after the day upon which the dog or cat is four (4) months old, or within thirty (30) days after acquisition of the dog or cat, or within thirty (30) days of moving into the City.

B. Failure to register and pay the required fee within the term prescribed shall cause such fee to become delinquent and penalties shall be added to the regular fee and collected by the City at the time of such delinquent registration.

C. Upon presentation of a certificate from a licensed veterinarian that the dog or cat has been spayed or neutered or that the dog or cat cannot be spayed or neutered for medical reasons, the registration fee shall be equivalent to at least one-half (0.5) that of the required fee.

D. The license fee may be prepaid for a one (1) year or a three (3) year period; provided, that the applicant presents a valid rabies vaccination certificate extending beyond the remaining period of validity of the license for which the applicant desires.

1. Fifty (50%) percent of revenue from unaltered license fees and fifty (50%) percent of all fines associated with enforcing the licenses of unaltered animals shall be reserved for the following purposes:

- a. a program to spay or neuter dogs and cats;
- b. a public education program to reduce and prevent the overpopulation of dogs and cats and the related costs to the City;
- c. a program to ensure that dogs and cats transferred by the City to any other public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group are spayed or neutered.

E. Exemptions:

1. Government. Dogs owned and used by the City, municipal corporations, or other public agencies shall be licensed without fee.
2. Senior Citizens. Two (2) altered cats or dogs kept in a household where the owner of the cat or dog is over the age of sixty-five (65) shall be licensed without fee.
3. Feral and community cats shall be exempt from licensing requirements
4. Service animals shall be licensed without fee

8.03.020 Application for license.

Application for dog or cat licenses shall be made in writing to the City and shall include the following for each animal: the name and address of owner; address where the dog or cat is kept; name, breed, age, sex, color, and description of the animal; and current rabies vaccination certificate issued by a licensed veterinarian.

8.03.030 Tagging a dog not described in application.

It is unlawful for any person to attach a license tag to the collar of any dog except the dog that is described in the application for such license tag.

8.03.040 Collar and tag.

A. It is unlawful for any person to own, harbor, or keep any dog over the age of four (4) months, unless such person has provided the dog with a suitable collar or other device to which the license shall be securely attached. The dog shall wear the collar and tag at all times that the dog is in the City and not confined indoors or in an enclosed yard or pen.

B. The owner or person in control of the dog shall show the license receipt and tag at any time upon demand by an Animal Control Officer or his or her designee. Refusal to show proper registration upon demand is unlawful.

8.03.050 Duplicate tags.

Lost license tags may be replaced by surrendering to the City the receipt for the lost license and by paying to the City a fee. This fee shall be established from time to time by resolution of the City Council. After complying with the above provision, the City shall again register the dog, and issue a new license tag. The City shall attach the surrendered receipt to a copy of the new receipt to substantiate the fee collected and verify the transaction.

8.03.060 Reserved.

8.03.070 Violation – Penalty.

Violation of any provision of EGMC Sections 8.03.010 through 8.03.080, inclusive, shall constitute an infraction which shall be enforced pursuant to the provisions of EGMC Chapter 1.04.

8.03.080 Microchip required for license.

A. As a condition for the issuance of a dog or cat license, all applicants for such license shall procure and deliver a certificate issued by a duly licensed veterinarian, certifying that each dog or cat to be licensed has been administered an anti-rabies

vaccination and has had a microchip inserted prior to the issuance of said license for the current license period.

B. The owner of a dog or cat may receive a microchip exemption for their animal upon payment of an annual microchip exemption registration fee as established by resolution of the City Council.

Section 4. Amendments to Elk Grove Municipal Code Chapter 8.04 Rabies Control

RABIES CONTROL

- 8.04.010 Restrictions on keeping of animals capable of transmitting rabies.
- 8.04.020 Rabies reports.
- 8.04.030 Vaccination required.
- 8.04.040 Vaccination – Exemption.
- 8.04.050 Certificate of vaccination.
- 8.04.060 Quarantine and impoundment.
- 8.04.070 Animal bite – Victim report.
- 8.04.080 Animal bite – Medical report.
- 8.04.090 Notification of quarantine restrictions.
- 8.04.100 Quarantined animal at large.
- 8.04.110 Killing of animals suspected of having rabies.
- 8.04.120 Quarantine of guide dog serving blind master.
- 8.04.130 Quarantine of dog used by law enforcement agency.

8.04.010 Restrictions on keeping of animals capable of transmitting rabies.

It shall be unlawful for any person to own, keep, harbor, or possess within the City limits any animal capable of transmitting the rabies virus unless such animal can be properly immunized with a rabies vaccine approved by the California Department of Public Health.

8.04.020 Rabies reports.

A. Rabies is declared to be a reportable disease. Every veterinarian practicing in this City and every person providing professional medical treatment for animal bites by an animal of a species subject to rabies shall immediately notify Animal Control within the proper jurisdiction, whenever rabies is suspected.

B. Every veterinarian, practicing within this City or having vaccinated any animal residing within City limits, shall provide Animal Control with a copy of every rabies immunization certificate which he or she issues for all animals immunized within the jurisdiction of such department.

8.04.030 Vaccination required.

A. No person shall keep, harbor, or maintain any cat or dog over the age of four (4) months within the City limits unless such animal has been vaccinated by a licensed veterinarian with a rabies vaccine approved by and in the manner prescribed by the California Department of Public Health.

B. Every cat/dog shall have a medically current vaccination with an anti-rabies vaccine approved by the California Department of Public Health. A veterinarian shall

administer the vaccination or as provided through County-recognized clinics, and a certificate of vaccination shall be issued to the owner. The certificate of rabies vaccination which accompanies the license application shall be valid if in compliance with the following immunization schedule:

1. Primary Immunization. Primary immunization shall be defined as the initial inoculation of an approved rabies vaccine administered to young cats/dogs between the ages of four (4) to twelve (12) months.

2. Revaccination Intervals. The interval for revaccination of cats/dogs administered primary immunization between the ages of four (4) to twelve (12) months will be twelve (12) months. The interval for primary or revaccination of cats/dogs administered rabies vaccines over the age of twelve (12) months shall be at least once (1) every three (3) years.

8.04.040 Vaccination – Exemption.

No cat/dog need be vaccinated for rabies where a licensed veterinarian has certified that the vaccination would endanger the cat/dog's health and the local health officer endorses on the certificate his or her approval. The certificate must bear the date of issuance and must be renewed each year. Any cat/dog subject to this exemption shall not be allowed off the premises of the owner.

8.04.050 Certificate of vaccination.

A. A license shall not be issued for any dog that has attained the age of four (4) months or over unless a valid certificate of rabies vaccination is presented with the license fee. The certificate of vaccination must show all items required by State law, including the following:

1. The name, address, and telephone number of the dog's owner;
2. The description of the dog, including breed, color, age, name, and sex;
3. The date of immunization;
4. The type of rabies vaccine administered;
5. The name of the manufacturer;
6. The lot number of the vaccine used.

B. Such certificates shall bear the signature of the veterinarian administering the vaccine or a signature authorized by him or her, and in addition such certificate shall be stamped, printed, or typed with his or her name, address, and telephone number for legibility.

8.04.060 Quarantine and impoundment.

All animals in violation of the Rabies Control Act (Section 121575, et seq., of the California Health and Safety Code), or of the rabies control provisions of this chapter, shall be quarantined or impounded and shall be subject to destruction in some humane manner or to other disposition as provided by this chapter.

8.04.070 Animal bite – Victim report.

Any person or parent or guardian of such person, or an owner of an animal, bitten or scratched by an animal of a species subject to rabies shall immediately report such incident to an Animal-Control Officer or Animal Control Unit.

8.04.080 Animal bite – Medical report.

Every veterinarian and every person providing professional medical treatment for animal bites by an animal of a species subject to rabies shall immediately notify Animal Control whenever rabies is suspected.

8.04.090 Notification of quarantine restrictions.

A. An Animal Control Officer shall issue a written notice to the owner of or to any person harboring an animal within the City to quarantine such animal for a period of eleven (11) days, or for such period as required by State law, when an Animal Control Officer has received information that such animal has bitten or otherwise exposed any person or other animal. The animal shall not be released from such quarantine except by written permission from an Animal Control Officer.

B. Upon demand made by an Animal Control Officer, the owner shall forthwith surrender any animal which has bitten a human or other animal, or which is suspected of having been exposed to rabies, for supervised quarantine at the animal shelter, the costs of which shall be borne by the owner. The animal may be reclaimed by the owner if adjudged free of rabies and upon the payment of board fees as determined by resolution of the City Council and upon compliance with the licensing provisions. No impoundment fee shall be incurred under such circumstances. At the discretion of an Animal-Control Officer, such quarantine may be on the premises of the owner. For stray animals whose ownership is not known, such quarantine shall be at the animal shelter.

8.04.100 Quarantined animal at large.

It shall be unlawful for any person to allow any animal to run at large or fail to keep the animal quarantined after being so notified.

8.04.110 Killing of animals suspected of having rabies.

No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, unless in self-defense or the defense of others, nor remove such animal from the City without written permission from Animal Control.

8.04.120 Quarantine of guide dog serving blind master.

Notwithstanding any other provision of this subchapter, a guide dog serving a blind master shall not be quarantined in the absence of evidence that he or she has been exposed to rabies unless his or her owner fails:

- A. To keep the dog safely confined to the premises of the owner;
- B. To keep the dog available for examination at all reasonable times.

8.04.130 Quarantine of dog used by law enforcement agency.

Notwithstanding any other provision of this chapter, a dog used by any State, County, City or City and County law enforcement agency shall not be quarantined after biting any person if such bite occurred while the dog was being used for any law enforcement purpose. The law enforcement agency shall make the dog available for examination at any reasonable time. The law enforcement agency shall notify Animal Control within its jurisdiction if the dog exhibits any abnormal behavior.

Section 5. Amendments to Elk Grove Municipal Code Chapter 8.05 *Animal Impoundment, Disposition, and Adoption*

ANIMAL IMPOUNDMENT, DISPOSITION, AND ADOPTION

- 8.05.010 Impounding of animals.
- 8.05.020 Impoundment of dogs.
- 8.05.030 Reserved.
- 8.05.040 Redemption of impounded animals.
- 8.05.050 Duration of impoundment.
- 8.05.060 Disposition authorized.
- 8.05.070 Abandonment.
- 8.05.080 Voluntary surrender – Fees.
- 8.05.090 Adoption.
- 8.05.100 Sterilization.
- 8.05.110 Voluntary owner releases of dead animal to an Animal Control Officer – Fee.
- 8.05.120 Disposal of carcasses by owners.
- 8.05.130 Diseased or injured animals.
- 8.05.140 Waiver of Fees

8.05.010 Impounding of animals.

An Animal Control Officer shall seize and impound any animal found on or off any premises in violation of any portion of this title and he or she shall have a lien upon such animal sufficient to secure payment of all expenses incurred by reason of his or her seizing, keeping, and caring for such animal. Collection of any and all sums due under this chapter shall be accomplished as determined by the City Council for the collection of any debt owed to the City.

8.05.020 Impoundment of dogs.

It is made the duty of an Animal Control Officer to take up and impound all dogs found or kept in the City in violation of any of the sections of this chapter, including, but not limited to, the permit and annual registration sections.

8.05.030 Reserved.

8.05.040 Redemption of impounded animals.

A. Except where redemption is not permitted by this title, redemption of an impounded animal by the owner shall be made by exhibiting to Animal Control or animal shelter personnel proof of the owner's identity and any required license certificate or license tag or other satisfactory proof of ownership with proof of the owner's identity. No such animal shall be released until redemption fees, costs of care and feeding, veterinary fees incurred if any, and any fees and penalties provided by this title have been paid. Redemption fees shall be established from time to time by resolution of the City Council. No dog or cat shall be released from impoundment until such dog or cat has been licensed or registered as provided by this chapter.

B. In addition to any other fees or fines imposed by this title or State law, the owner of a non-spayed or unneutered dog or cat shall be subject to an "unaltered impounded

animal fee." The unaltered impounded animal fee shall be set by resolution of the City Council. For the purpose of this section, "impounded" shall mean any animal that is impounded in violation of EGMC Section 8.05.020 or 8.05.030.

1. Fees collected pursuant to this subsection shall be held to ensure the spaying or neutering of the dog or cat. This fee shall be refundable if written proof of spaying or neutering of the animal is presented to the City within thirty (30) business days of the date of redemption. Refunds shall not exceed the actual fee collected and/or the actual cost charged by a licensed veterinarian to surgically alter the animal, whichever is less.

2. If written proof of spaying or neutering is not presented to the City within thirty (30) business days of the date of redemption, the fee shall be forfeited to the City. All unaltered impounded animal fees forfeited or unclaimed under this section shall be retained by the City and used only for the following purposes:

- a. A program to spay or neuter dogs and cats;
- b. A public education program to reduce and prevent overpopulation of dogs and cats, and the related costs to the City;
- c. A follow-up program to ensure that dogs and cats transferred by the City to any other public animal control agency or shelter, society for the prevention of cruelty to animal shelter, humane society shelter, or rescue group are spayed or neutered;
- d. Any additional costs incurred by Animal Control in the administration of this section.

3. The City may extend the date by which spaying or neutering is to be completed at its discretion for good cause shown, including, but not limited to, a written determination by a veterinarian licensed to practice veterinary medicine in this State that a dog or cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered. Any extension shall be in writing and shall be temporary, until the dog or cat is healthy enough to be spayed or neutered as certified by a veterinarian licensed to practice veterinary medicine in this State. The dog or cat shall be spayed or neutered within fourteen (14) business days of that certification. The owner shall obtain written proof of spaying or neutering from the veterinarian performing the operation. If the owner presents proof of spaying or neutering to the City within thirty (30) business days of the expiration of the temporary extension, the owner shall receive a refund of the unaltered impounded animal fee pursuant to subsection (B)(1) of this section.

C. A citation pursuant to Section 30804.7 (dogs) or 31751.7 (cats) of the Food and Agriculture Code may be issued in lieu of payment of the foregoing fee.

D. An Animal Control Officer, at his or her discretion, may refuse to permit the redemption of any animal impounded pursuant to the provisions of this title, or any other County, State or municipal law, until in his or her opinion the need for the retention of such animal no longer exists. Circumstances could be, but are not limited to, the area in which the animal is to be housed, the need to properly secure the animal on the owner's property, and providing proper veterinarian care. The cost of such continued retention, after any request of redemption and tendering of and costs and fees by the owner, shall be borne by the City. This provision shall not apply to animals impounded during or pursuant to an investigation regarding the designation of the animal as potentially dangerous or vicious, or regarding the owner's care of the animal.

8.05.050 Duration of impoundment.

A. Licensed/Tagged Dog or Cat. All impounded dogs or cats found wearing a current license tag or bearing an identification tag or tattoo shall, unless sooner redeemed, be kept in the animal shelter for a period of not less than four (4) days after notification.

B. Unlicensed/Tagged Dog or Cat. All impounded dogs or cats found not wearing a current license or identification tag shall, unless sooner redeemed or adopted, be kept in the animal shelter for the period of time required by State law.

C. Livestock. Any impounded livestock, such as bovine animals, horses, mules, or burros, shall be kept in the animal shelter for at least fourteen (14) days, unless it is redeemed within that period. If the animal is a bovine animal and is not redeemed, it shall be turned over to the State Bureau of Livestock Identification for disposition by that office. Any other livestock shall be disposed of in accordance with the provisions of Sections 17063 through 17095 of the Food and Agriculture Code of the State.

D. Other Animals. Any other impounded animal not listed above shall, unless sooner redeemed or adopted, be kept in the animal shelter for the period of time required by State law, as may be amended from time to time, and no less than six (6) business days.

8.05.060 Disposition authorized.

Except as otherwise provided in this title, an impounded animal which is not redeemed within the specified holding period shall be considered to be abandoned by its owner and shall become the property of the City. Such animal may be adopted or humanely destroyed.

8.05.070 Abandonment.

The refusal or failure of the owner of any such animal to pay the fees and charges, after due notification, shall constitute his or her abandonment of the animal. Any animal not claimed by its owner within the period specified in this title shall become the property of the City and shall be placed for adoption in a suitable home or humanely destroyed. Abandonment does not relieve the owner's obligation to pay all fees related to the impounding and keeping of the animal.

8.05.080 Voluntary surrender – Fees.

A. Upon request, an owner may surrender his or her animal to an Animal Control Officer for placement for adoption. Any animal which is voluntarily surrendered to or deposited with the animal shelter or an Animal Control Officer by the owner shall immediately thereafter become the property of the City. It shall be understood that no guarantee of placement will be made, and humane disposal will be at the discretion of an Animal Control Officer.

B. Any owner of an animal who voluntarily surrenders an animal to an Animal Control Officer shall be subject to a fee for each animal over the age of four (4) months. Litters of unweaned animals or animals less than four (4) months of age shall be considered as one (1) animal.

C. The surrender of an animal by an owner to the animal shelter, subsequent to impoundment for a violation of this title or any provisions of State law, shall not relieve the owner of the obligation to pay such charges as set forth in this section, prior to such surrender, plus accumulated boarding charges, veterinary charges or any other charges related to the impounding and keeping of the animal.

8.05.090 Adoption.

Animals subject to disposition by the City may be sold if the animal shelter finds that the sale of any such animal is not contrary to law, to policy of the City, or to the public interest. Dogs or cats may not be sold for purposes other than keeping of pets, and may not be sold without first having been licensed when required, neutered or spayed, or a fee therefore having been deposited.

8.05.100 Sterilization.

A. No unclaimed dog or cat shall be released for adoption without being sterilized or without a written agreement from the adopter guaranteeing that such animal will be sterilized and a sterilization deposit made. The sterilization fee deposit shall be established from time to time by resolution of the City Council.

B. In the event such animal is not sterilized within one (1) year after the date of purchase, the sterilization deposit collected at the time of adoption will be considered abandoned and the money applied to the general Animal Services fund and shall be used only for the following purposes:

1. A public education program to prevent overpopulation of dogs and cats;
2. A program to spay or neuter dogs and cats;
3. A follow-up program to assure that animals sold or given away by the shelter are spayed or neutered;
4. Any additional costs incurred under this section.

C. It shall constitute a misdemeanor to fail to sterilize any dog or cat adopted from the animal shelter and the unsterilized animal shall be impounded.

8.05.110 Voluntary owner releases of dead animal to an Animal Control Officer – Fee.

Any owner of a dead animal who voluntarily releases such animal to an Animal Control Officer, or any dead animal taken into custody by an Animal Control Officer, whose ownership can be determined, shall be subject to a disposal fee. The amount of the disposal fee is set by resolution of the City Council.

8.05.120 Disposal of carcasses by owners.

Any person possessing a dead animal shall take the responsibility of disposing of it in a safe and sanitary manner. Upon the receipt of information that the body of an animal has not been properly disposed of in accordance with this section, an Animal Control Officer shall dispose of the body.

8.05.130 Diseased or injured animals.

A. Notwithstanding any provisions of this title, an impounded animal, which is determined by a veterinarian to constitute a health or safety hazard, shall be destroyed or otherwise disposed of without delay by an Animal Control Officer or the veterinarian.

B. An impounded animal which is determined by a licensed veterinarian to be suffering extreme pain due to disease or injury, and where there is no reasonable probability that the animal will recover from its disease or injury, may be destroyed without delay by an Animal Control Officer or veterinarian.

C. An Animal Control Officer or any police or sheriff's department may, with the approval of his or her immediate supervisor, humanely destroy within the corporate limits without transporting to shelter or veterinarian any animal too severely injured to

move or where a veterinarian is not available or it would be more humane to dispose of the animal.

8.05.140 Waiver of Fees

The City Manager may authorize the Chief of Police to waive, in full or in part, fees, exclusive of licensing, impound, boarding, permits, or when necessary to accomplish the protection of animal or public health, safety, or welfare, or if the owner provides satisfactory evidence that he or she was not at fault, explicitly or implicitly, for the impoundment or keeping of the animal at an Animal Shelter.

Section 6. Amendments to Elk Grove Municipal Code Chapter 8.06 *Dangerous and Vicious Animals*

DANGEROUS AND VICIOUS ANIMALS

- 8.06.010 Purpose.
- 8.06.020 Definitions.
- 8.06.030 Investigation, confinement, seizures and impoundment.
- 8.06.040 Dangerous animals.
- 8.06.050 Vicious animals.
- 8.06.060 Destruction of vicious animal.
- 8.06.070 Determination of potentially dangerous or vicious animal – Hearing.
- 8.06.080 Time limit to meet requirements.
- 8.06.090 Dogs to be kept under control at all times.
- 8.06.100 Impoundment authorized.
- 8.06.110 Compliance required – Violation.
- 8.06.120 Exception.
- 8.06.130 Restriction on future ownership.
- 8.06.140 Removal of designation.
- 8.06.150 Permit for dangerous animal required.

8.06.010 Purpose.

This chapter is intended to reduce the risk of attacks or bites by dogs and other animals.

8.06.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. The following circumstances shall be deemed to be “mitigations.” Mitigation shall be a factor in consideration of whether an animal is potentially dangerous, dangerous, or vicious but will be weighed with other circumstances in the making of that determination, including, but not limited to, circumstances such as the nature of the trespass, the age of the trespasser, and the training of the animal in the use of deadly force. Mitigation shall not be considered if the animal has been trained to attack in a manner which will violate any other provision of law.

B. A person is "peaceably and lawfully upon the private property of an owner or possessor of the animal" when he or she is on such property in the performance of any duty imposed upon him or her by the laws of this State or any city or county, or by the laws or postal regulations of the United States, or when he or she is on such property upon invitation, expressed or implied.

C. "Proper enclosure of a dangerous animal" means that a dangerous animal shall be securely and humanely confined on the owner's property:

1. Within a fence line or structure suitable to prevent the entry of young children, and which is suitable to confine a dangerous animal in conjunction with other measures which shall be taken by the owner or keeper of the animal, such as keeping the animal held securely on a chain. The enclosure shall be designed in order to prevent the animal from escaping; or

2. In an enclosed and locked (with a key or combination lock) pen or structure, suitable to prevent the animal from escaping or the entry of unauthorized persons. The pen or structure shall have secure sides and a secure top which protects the animal from the elements. All sides must be embedded into the ground no less than two (2' 0") feet unless the bottom is adequately secured to the sides. The structure must be kept in a clean and sanitary condition and provide adequate light and ventilation. The enclosure shall not be less than five (5' 0") feet by ten (10' 0") feet, and not less than six (6' 0") feet high.

D. "Severe injury" means any physical injury to a human being or other animal that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

E. "When unprovoked" means that the person who has suffered the injury has not caused nor been a party to any act of teasing, tormenting, abusing, or assaulting the animal, which act of teasing, tormenting, abusing, or assaulting resulted in the animal inflicted injury on that person.

8.06.030 Investigation, confinement, seizures and impoundment.

A. Whenever an animal suspected of being dangerous or vicious is reported, an Animal Control Officer shall investigate the circumstances and if he or she finds that the animal shows a propensity to attack, bite, scratch, or harass people or other animals without provocation, or displays any other such behavior, he or she shall notify the owner in writing, stating all the facts and circumstances. An Animal Control Officer may order that the animal be kept within a substantial enclosure, securely leashed or otherwise controlled.

B. If the Animal Control Officer has probable cause to believe an animal may be designated as "dangerous" or "vicious" under this title, the owner is unwilling or unable to properly contain and/or control the animal immediately, and the animal poses an immediate threat to the safety of persons or domestic animals, the animal can be seized, pending the outcome of hearing or appeal; or during the period of time the owner requires to comply with any requirements imposed hereunder, the animal shall be kept at the animal shelter facility at the owner's expense.

C. The animal's owner shall be charged for all costs incurred or fees applicable with respect to such impoundment unless a finding is made that the animal is not potentially dangerous or vicious, or not subject to destruction. An animal held under the provisions of this section shall not be released until the owner pays all charges as specified in EGMC Sections 8.05.010 through 8.05.040. If the owner refuses to pay such charges, the animal shall be treated as unredeemed by the owner, and disposed of pursuant to

EGMC Section 8.05.070. Disposal of the animal does not release the owner from his or her responsibility to pay the keeping charges.

8.06.040 Dangerous animals.

A. Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any of the following behavior, is presumed dangerous:

1. Any animal that chases or approaches any person or domestic animal, anywhere other than on the property of the owner or custodian, in a menacing fashion or apparent attitude of attack, including, but not limited to, behavior such as growling or snarling;

2. Any animal which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper of the animal;

3. Any animal which, when unprovoked, bites a person causing a less severe injury than as defined in EGMC Section 8.06.020(D);

4. Any animal which, when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking any other animal off the property of the owner or keeper of the animal.

B. An Animal Control Officer may issue a notice designating an animal exhibiting the aforementioned characteristics as dangerous and may recommend that the animal's owner take certain actions to prevent future injury by the animal, notwithstanding exceptions as provided for in Section 31626 of the Food and Agriculture Code. Such designation shall be subject to a hearing as provided for in EGMC Section 8.06.070.

8.06.050 Vicious animals.

Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any of the following behavior, is presumed vicious:

A. Any animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being, in a place where such person is conducting himself or herself peacefully and lawfully;

B. An animal which has been trained to fight or which is owned or harbored for this purpose;

C. Any animal previously determined to be and currently listed as a dangerous animal which, after its owner or keeper has been notified of this determination, continues the behavior described in EGMC Section 8.06.040 or 8.06.050, or is maintained in violation of EGMC Section 8.06.110.

8.06.060 Destruction of vicious animal.

After the notice and hearing provided for in EGMC Section 8.06.070, Animal Control may further find, in writing with supporting reasons, that an animal is so vicious, or that other special circumstances exist, such that maintaining the animal poses a substantial threat to public health and safety. Ten (10) days after mailing notice of a finding under this section, Animal Control may dispose of any vicious animal by humanely destroying it by injection.

8.06.070 Determination of potentially dangerous or vicious animal – Hearing.

A. An animal which exhibits any behavior described in EGMC Sections 8.06.040 through 8.06.050, inclusive, may be determined to be a dangerous or vicious animal.

The status shall be established after a hearing as hereinafter provided. Proceedings may be instituted by:

1. Observation by an Animal Control Officer;
2. A complaint sworn by a person or persons who observed the behavior complained of.

B. Hearings for classification as "dangerous" or "vicious" shall be conducted as follows:

1. The owner shall be given written notice, by first class mail with return receipt requested, or personal service, of the facts which are the bases of the complaint and notice of a hearing. The owner shall be notified of the restrictions which will apply to the animal if it is classified as a dangerous or vicious animal.

2. The owner may waive his or her right to a hearing by filing a written waiver with Animal Control, whereupon Animal Control shall make the findings and apply the sanctions provided in this title.

3. Any hearing shall be set not less than five (5) business days nor more than ten (10) business days after the notice was mailed to the owner by first class return receipt mail or the owner was personally served, unless the animal has been seized, in which case the hearing must be conducted not later than ten (10) business days after the seizure.

4. If the owner fails to appear at the hearing, the hearing shall nevertheless proceed, and an appropriate order shall be issued.

5. The hearing shall be conducted before a hearing officer. The appointment of the hearing officer shall be by the City Attorney. Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. The City Attorney shall promulgate rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the City of Elk Grove as hearing officers and for the disqualification of hearing officers.

6. The hearing officer may continue hearings, based on good cause, as established by one (1) of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.

7. The hearing officer shall consider all relevant evidence presented at the hearing. The formal rules of evidence shall not apply. The hearing officer shall also consider circumstances of mitigation, as well as the owner's and animal's history. If the hearing is held as a result of a sworn complaint, at least one (1) of the complainants shall appear and testify at the hearing or the complaint shall be dismissed.

8. After the hearing, the owner or keeper of the animal shall be notified in writing of the determination and orders issued, either personally or by first class return receipt mail. The hearing officer shall make a written determination within fifteen (15) days after the hearing is concluded, unless the animal has been seized, in which case the determination shall be made in seven (7) days. The decision of the hearing officer shall be final. The complainant, if any, shall be provided with a copy of the determination of the hearing officer.

9. Within five (5) days of the receipt of the notice of determination, either the City or the owner or keeper of the animal may appeal the decision of the hearing officer to the superior court having jurisdiction over the matter. The party appealing the determination shall serve personally or by first class return receipt mail, notice of the appeal on the other party. Any such appeal shall be by trial *de novo*.

10. The determination of the court hearing the appeal shall be final and conclusive upon all parties.

C. If an animal is determined to be vicious, the animal shall be immediately removed from corporate limits of the City. If an animal is designated "dangerous," the following sanctions shall be applied:

1. Reserved

2. A dangerous animal shall be securely confined in an enclosure as described in EGMC Section 8.06.020(C)(1)(2) or in the dwelling while on the owner's or custodian's property. The owner shall conspicuously display signs with a symbol warning of the presence of a dangerous animal.

3. While off the owner's premises, a dangerous animal shall at all times be restrained by a substantial chain or leash not exceeding three (3) feet in length, be capable of restraining four (4) times the weight of the animal, and held by and under the control of a responsible adult.

4. All dangerous animals shall be properly licensed micro-chipped and vaccinated. In addition, the City shall license the animal as a "Dangerous Animal" and place the information in the licensing records of such animal, and the owner shall pay a thirty-six (36) month dangerous/vicious animal licensing fee. The fee shall be established from time to time by resolution of the City Council.

5. A dangerous dog shall be spayed or neutered, at the owner's expense, within thirty (30) days of a dangerous animal determination.

6. An Animal Control Supervisor and/or designee is authorized to make whatever inspections he or she deems necessary to ensure compliance with these provisions.

7. The animal must be securely muzzled while off the owner's property at all times. The muzzle must be constructed to allow normal respiration but impossible for the animal to remove without human assistance.

8. The owner of the animal shall enroll the animal in an obedience class that addresses the animal's behavior. The course must be no less than eight (8) weeks and must be provided through a certified trainer. Proof of successful completion must be provided to Animal Control by the animal owner immediately following completion of the class. The owner of the animal shall be responsible for all fees and charges to attend the class.

9. The owner of the animal shall complete a "Dangerous Animal Permit" application and pay in full the permit fee. The fee is established by resolution of City Council.

10. The owner shall obtain and provide evidence of a public liability insurance policy from an insurer licensed to practice in the State of California, in a single incident amount of not less than one hundred thousand dollars (\$100,000.00), for injury or death of any person or persons, or loss or damage to any property caused by or resulting from any act of the animal. The Chief of Police shall be notified in writing at least ten (10) days prior to the cancellation or renewal of the policy.

D. Failure to maintain any animal found to be dangerous consistent with the provision of this section shall constitute a misdemeanor, punishable as set forth in EGMC Section 8.06.110.

8.06.080 Time limit to meet requirements.

All requirements for owners of dangerous animals must be satisfied within thirty (30) days of issuing a notice of designation as set forth in EGMC 8.06.040.B., unless

otherwise specified, in the permit. Satisfactory proof of compliance must be provided to Animal Control. If all requirements for owners of dangerous animals are not satisfied within thirty (30) days of the notice of designation, or the owner is unable or unwilling to implement them, the animal shall be humanely euthanized either by an Animal Control Officer or by a licensed veterinarian. Proof of euthanasia shall be provided to an Animal Control Officer within three (3) days of its occurrence.

8.06.090 Dogs to be kept under control at all times.

Even if the owner is in compliance with the regulations for keeping such a dangerous animal, if such animal attacks, bites, causes injury, or otherwise threatens the safety of a human being or domestic animal, then such animal shall be immediately impounded at the animal shelter and be subject to destruction.

8.06.100 Impoundment authorized.

If upon receiving written notification the owner fails to restrain or control a dangerous animal, as ordered, the owner is in violation of this title and an Animal Control Officer is empowered to seize and impound or destroy the animal.

8.06.110 Compliance required – Violation.

Failure of any owner to comply with the provisions of this chapter relating to the keeping, harboring, owning, possessing, or controlling of any dangerous or vicious animals, shall constitute a misdemeanor.

8.06.120 Exception.

Nothing in this chapter shall limit the right of any person or officer to take any proceedings against a dangerous or vicious animal or the owner thereof otherwise permitted or provided by State law.

8.06.130 Restriction on future ownership.

A. Any person who owns, possesses, keeps or harbors an animal determined to be dangerous or vicious pursuant to this title may, after opportunity for hearing and a finding of good cause by an Animal Control Officer, be subject to restrictions on the ownership of other animals of the species for a period of five (5) years after the original determination of dangerous.

B. At least fifteen (15) days prior to imposition of restrictions, an Animal Control Officer shall mail or otherwise deliver to the person on whom restrictions are proposed a notice containing a statement of the reasons supporting the imposition of restrictions and specifying the proposed restrictions and notice of the person's right to request, in writing within five (5) days of receipt of the notice, a hearing before the hearing officer as to the existence of good cause for imposition of restrictions. If a hearing is requested, the City shall mail or otherwise deliver to the requesting party notice of the time and place of the hearing. If, after the hearing, the hearing officer determines that good cause for restrictions exists, he or she shall impose the specific restrictions within ten (10) days after mailing notice of the decision. If no hearing is requested, the animal control officer shall impose restrictions within fifteen (15) days of the original notice.

8.06.140 Removal of designation.

A. If there are no additional instances of the behavior described in EGMC Section 8.06.040 or 8.06.050 within a thirty-six (36) month period from the date of designation as a dangerous animal, the animal shall be removed from the list of dangerous animals.

B. The owner of a dangerous animal shall notify Animal Control immediately if said animal is loose, unconfined, has attacked another animal or human being, or has died or if moved to a new location within the corporate limits of the City of Elk Grove for purposes of re-inspection of the animal's enclosure.

C. A dangerous animal shall not be sold, bartered, given away, or placed in a new home without prior notification of and approval by Animal Control. Any new owner must comply with the requirements of this section. If the animal in question dies, or is sold, transferred, or permanently removed from the city where the owner or keeper resides, the owner of the dangerous animal shall notify Animal Control of the changed condition and new location of the animal in writing within two (2) business days.

8.06.150 Permit for dangerous animal required.

Upon receipt of a permit application to keep a dangerous animal, an Animal Control Officer may investigate the application and after permit fees have been paid, may grant a City permit if in his or her discretion, he or she finds the following conditions are satisfied:

A. All aspects of EGMC Section 8.06.070(C) have been met;

B. The animal will not create any detriment or danger to the peace, health, or safety of the people in the vicinity of the location the animal will be kept;

C. Possession and maintenance of the animal at the location has not resulted in and is not likely to result in an animal being subjected to neglect, suffering, cruelty, or abuse;

D. The location where the animal is possessed or maintained is kept clean and sanitary, and the animal is provided with proper and adequate food, water, ventilation, housing, and care at all times;

E. Neither the applicant, owners, nor the possessor of the animal has had a City dangerous animal permit or any other license required under this title revoked, or been convicted of a violation of this title or any law regulating animals within three (3) years;

F. The animal shall not be possessed nor maintained at any other location than that expressed on the permit.

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: 4-2013
INTRODUCED: February 27, 2013
ADOPTED: March 13, 2013
EFFECTIVE: April 12, 2013



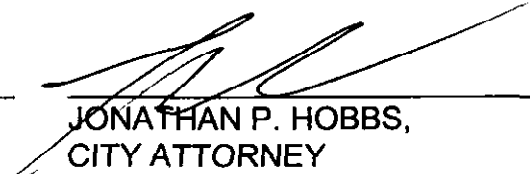
GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: March 15, 2013

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 4-2013

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 February 27, 2013 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on March 13, 2013 by the following vote:


AYES : COUNCILMEMBERS: Davis, Detrick, Cooper, Hume, Trigg

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