

ORDINANCE NO. 27-2007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING, RENUMBERING AND REENACTING TITLE 9
OF THE CITY'S MUNICIPAL CODE

The City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose and Authority

This Ordinance is adopted pursuant to California Constitution Article XI, section 7 and California Government Code section 37100.

Upon incorporation the Elk Grove City Council adopted the Sacramento County Code as the Elk Grove Municipal Code. Since that time various provisions of the City's Code have been revised for consistency with the Council's mission and vision.

Title 9 of the City's Code is titled "Public Peace, Morals and Safety." Many chapters in Title 9 are appropriate and suitable for promoting a safe and healthy environment within the City. Also, the City Council has already revised chapters 9.96 and 9.97. However, some provisions in Title 9 are not applicable to the City, have been superseded by State statutes or are inconsistent with current law.

This ordinance repeals Title 9 of the City's Code, with the exception of chapters 9.36, 9.96 and 9.97, renumbers the chapters of Title 9 and reenacts Title 9 with the purpose of removing provisions that duplicate current law, revising provisions to ensure consistency with current law, clarifying language and removing provisions that do not apply to the City.

SECTION 2. Repeal. Title 9 of the Elk Grove Municipal Code is hereby repealed, with the exception of chapters 9.36, 9.96 and 9.97.

SECTION 3. Renumbering. Chapter 9.08 shall be renumbered 9.01, Chapter 9.12 shall be renumbered 9.02, Chapter 9.16 shall be renumbered 9.03, Chapter 9.20 shall be renumbered 9.04, Chapter 9.28 shall be renumbered 9.05, Chapter 9.38 shall be renumbered 9.07, Chapter 9.40 shall be renumbered 9.08, Chapter 9.41 shall be renumbered 9.09, Chapter 9.76 shall be renumbered 9.10, Chapter 9.78 shall be renumbered 9.11, Chapter 9.82 shall be renumbered 9.12, Chapter 9.83 shall be renumbered 9.13, Chapter 9.92 shall be renumbered 9.14, Chapter 9.94 shall be renumbered 9.15, Chapter 9.96 shall be renumbered 9.16, Chapter 9.97 shall be renumbered 9.17 and Chapter 9.98 shall be renumbered 9.18.

SECTION 4. Reenactment. Title 9 of the Elk Grove Municipal Code is hereby reenacted as follows:

TITLE 9

PUBLIC PEACE, MORALS AND SAFETY

Chapters:

- 9.01 Road Closures and Destruction of Road Barriers and Signs
- 9.02 Destroying Monuments
- 9.03 Impersonating City Police Officers and Employees
- 9.04 False Reports
- 9.05 Youth Curfew
- 9.06 [Reserved]
- 9.07 Sidewalk Recreation
- 9.08 Firearms
- 9.09 Bows and Arrows
- 9.10 Unauthorized Use of Shopping Carts
- 9.11 Human Waste Disposal
- 9.12 Loitering
- 9.13 Prohibition of Picketing Directed at a Residence or Dwelling
- 9.14 Possession of Open Containers Containing Alcoholic Beverages in Any Private Off-Road Parking Facility
- 9.15 Unauthorized Use of Towers
- 9.16 Emergency Alarms
- 9.17 On-Site Security Requirement
- 9.18 Display of Harmful Matter to Minors
- 9.36 Park Regulations

Chapter 9.01

ROAD CLOSURES AND DESTRUCTION OF ROAD BARRIERS AND SIGNS

Sections:

- 9.01.010 Closing roads or highways
- 9.01.020 Erection of barriers and signs
- 9.01.030 Destruction of barriers and signs
- 9.01.040 Penalty for violation

9.01.010 Closing Roads or Highways. The City Manager, or his or her designee, may close or cause to be closed all or a portion of any road or highway under the City of Elk Grove's jurisdiction to permit completion of construction or maintenance work being performed on the road or highway.

9.01.020 Erection of Barriers and Signs. While any such road or highway, or portion thereof, is in the process of construction or maintenance, the City Manager or his or her designee may erect, or cause to be erected, barriers, obstructions, warning lights and other necessary materials thereon, and may post, or cause to be posted, conspicuous notices alerting the public that the road or highway, or portion thereof, is closed and re-directing traffic.

9.01.030 Destruction of Barriers and Signs. No person shall knowingly break down, remove, injure, deface or destroy any such barriers, obstructions, warning lights or other necessary materials referenced in section 9.01.020.

9.01.040 Penalty for Violation. Any person who knowingly violates this chapter shall be guilty of a misdemeanor.

Chapter 9.02

DESTROYING MONUMENTS

Sections:

9.02.010 Destroying monuments a misdemeanor

9.02.020 Penalty for Violation

9.02.010 Destroying Monuments a Misdemeanor. Persons within the City of Elk Grove shall not willfully injure, deface, break down, or remove any monument or stake placed, erected or used by City of Elk Grove employees or authorized City of Elk Grove contractors for the purpose of designating any point in the boundary or survey of any road or highway within the jurisdiction of the City of Elk Grove, on or along any such road or highway, or as a part of such road or highway work.

9.02.020 Penalty for Violation. A person who knowingly violates this chapter shall be guilty of a misdemeanor.

Chapter 9.03

IMPERSONATING CITY POLICE OFFICERS AND EMPLOYEES

Sections:

- 9.03.010 Impersonating police officers and employees prohibited
- 9.03.020 Wearing of uniforms prohibited
- 9.03.030 Penalty for violation

9.03.010 Impersonating City Police Officers and Employees Prohibited. Persons within the City of Elk Grove shall not falsely represent themselves to be an Elk Grove police officer, City Council member, officer, employee, agent, consultant or representative of the City of Elk Grove.

9.03.020 Wearing of Uniforms. Any person who wears a uniform substantially similar to the official uniform of the Elk Grove Police Department except federal, state, county or local officers when so designated as their official uniform, or other persons authorized by the Elk Grove Police Chief or his or her designee, shall be guilty of a misdemeanor.

A uniform shall be deemed substantially similar to the uniform of the Elk Grove Police Department if it so resembles the official uniform as to cause an ordinary reasonable person to believe that the person wearing the uniform is a member of the Elk Grove Police Department.

Uniforms consisting of a blue coloration of trousers, shirt and jacket shall be deemed prima facie evidence of substantial similarity to the Elk Grove Police Department's uniform.

9.03.030 Penalty for Violation. Any person who violates this chapter shall be guilty of a misdemeanor.

Chapter 9.04

FALSE REPORTS

Sections:

- 9.04.010 Making false reports prohibited
- 9.04.020 Use of false or misleading documents prohibited
- 9.04.030 Penalty for violation

9.04.010 Making False Reports Prohibited. It is unlawful for any person to knowingly falsify or conceal any fact, or make any false or fraudulent statement or misrepresentation in any matter or proceeding within the jurisdiction of any department or agency of the City.

9.04.020 Use of False or Misleading Documents Prohibited. It is unlawful for any person to knowingly use any false or misleading writing or document in any matter or proceeding within the jurisdiction of any department or agency of the City.

9.04.030 Penalty for Violation. Any person who knowingly violates this chapter shall be guilty of a misdemeanor.

CHAPTER 9.05
YOUTH CURFEW

Parts:

- 1 Findings
- 2 Definitions
- 3 Regulations

Part 1

FINDINGS

Sections:

- 9.05.000 Findings

9.05.000 Findings. The City Council of the City of Elk Grove makes the following findings:

1. It is the goal of this curfew ordinance to reduce the number of juveniles being victimized, as well as to safeguard the community from juvenile delinquency.
2. Cities throughout the United States such as Dallas, Texas, Phoenix, Arizona, Chicago, Illinois, New Orleans, Louisiana, Denver, Colorado and North Little Rock, Arkansas have experienced a drop in juvenile delinquency and victimization during curfew hours as a result of adopting curfew ordinances.
3. It is the goal of the Elk Grove Police Department to protect all members of the community.
4. This ordinance will strengthen the Elk Grove Police Department's ability to provide public safety.
5. Regardless of age, all members of the Elk Grove community will benefit from this ordinance.

Part 2

DEFINITIONS

Sections:

- 9.05.010 Definitions

9.05.010 Definitions. The definitions set forth in this part shall govern the application and interpretation of this chapter.

- (a) "Curfew hours" means between 10:00 p.m. and daylight.
- (b) "Emergency" means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious bodily injury, as

defined in section 9.05.090, or loss of life. The term includes, but is not limited to, a fire, a natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(c) "Establishment" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment, or recreation.

(d) "Guardian" means:

(1) A person who, under court order, is the guardian of the person of a minor;
or

(2) A public or private agency with whom a minor has been placed by a court;
or

(3) A person who is at least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

(e) "Minor" means any person under eighteen years of age.

(f) "Parent" means a person who is a natural parent, adoptive parent, or step-parent of a minor.

(g) "Public place" means:

(1) Any out-of-door area to which the public or a substantial group of the public has access, including, but not limited to, streets, highways, sidewalks, alleys, parks, playgrounds, or other public grounds; and

(2) The out-of-doors common areas of establishments, including, but not limited to, entry ways and parking lots.

(h) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any body member or organ.

Part 3 REGULATIONS

Sections:

9.05.020	Prohibition
9.05.030	Exemptions
9.05.040	Constitutional rights
9.05.050	Enforcement procedure
9.05.060	Parent responsibility
9.05.070	Penalty for violation

9.05.020 Prohibition. It is unlawful for any minor to be in any public place or establishment within the City during curfew hours, except as provided under section 9.05.030.

9.05.030 Exemptions. Minors shall not be in violation of this chapter if, at the time the minor is stopped by a police officer, the minor is:

- (a) Accompanied by the minor's parent or guardian;
- (b) On an errand at the direction of the minor's parent or guardian, without detour or stop;
- (c) Driving or riding in a motor vehicle or riding on public transportation;
- (d) Engaged in a lawful volunteer or paid employment activity, or going to or returning home from a lawful volunteer or paid employment activity, without detour or stop;
- (e) Acting in response to an emergency;
- (f) On the sidewalk abutting the minor's residence or abutting the residence which is immediately adjacent to the minor's residence;
- (g) Attending or going to or returning home, without detour or stop, from a school, religious, cultural, sports, amusement, entertainment, or recreation activity; or any organized rally, demonstration, meeting or similar activity;
- (h) Waiting at a train or bus station for transportation;
- (i) Emancipated in accordance with the California Family Code or other applicable state law.

9.05.040 Constitutional Rights. Nothing in this chapter shall be interpreted to preclude minors from being in a public place for the purpose of exercising the rights guaranteed by the First Amendment of the United States Constitution and by Article I, sections 2, 3, and 4 of the California Constitution, including the free exercise of religion, freedom of speech, the right of assembly, and the right to petition.

9.05.050 Enforcement Procedure.

- (a) Before taking any enforcement action under section 9.05.020, a police officer shall ask the apparent offender's age and reason for being in the public place.
- (b) The officer shall not take enforcement action under this chapter unless the officer has probable cause to believe that neither section 9.05.040 nor any exemption under section 9.05.030 applies.

9.05.060 Parent Responsibility. It is unlawful for parents and guardians to permit or allow minors to violate section 9.05.020 of this chapter. Each violation of this section shall constitute a separate offense.

9.05.070 Penalty For Violation. Any minor who violates section 9.05.020 shall be guilty of a misdemeanor and shall be dealt with in accordance with juvenile court law and procedure.

Any parent or guardian who violates section 9.05.060 shall be guilty of a misdemeanor.

Chapter 9.06

[RESERVED]

Chapter 9.07

SIDEWALK RECREATION

Sections:

- 9.07.010 Statement of purpose
- 9.07.015 Restrictions on private and public property
- 9.07.020 Penalty for Violation

9.07.010 Statement of Purpose. The City Council of the City of Elk Grove make the following findings regarding the necessity for the regulation of skateboards, roller skates, in-line skates, roller skis and similar devices:

1. The regulatory provisions of section 9.07.015 of this chapter are necessary to ensure that skateboards, roller skates, in-line skates and similar devices are operated reasonably for the protection of public health, safety, and welfare.
2. The use of public structures and private property for skating, skateboards or similar devices obstructs and interferes with the free and safe use of such property and, in addition, can be dangerous to the user of such devices.
3. Private property owners confirm that the use of skates, skateboards or similar devices causes substantial damage to private property consequently causing the private property owner to expend substantial time policing his or her property and expending substantial funds to repair the same.
4. Law enforcement and private property owners confirm that skating and the use of skateboards or similar devices causes safety problems for pedestrians on private property. In shopping centers, shopping malls, or other business establishments, citizens, especially the elderly, have expressed concern over the sometimes aggressive and abusive behavior of the users of such devices, and have expressed a reluctance to return to such business establishments because of the presence of the users of such devices.
5. The improper use of skates, skateboards or similar devices while enjoyable to the user thereof can, in addition, if improperly used, not only cause damage and injury to property and pedestrians, but can cause injury to the user of such devices as the user thereof dodges cars in parking lots, pedestrians, and damages property.
6. The proliferation of the use of skates, skate boards and similar devices on private and public property is now a popular sport and method of transportation. However, it has caused the above-mentioned public safety concerns. If all users of such devices were courteous and careful, regulatory supervision would be unnecessary. However, many such users cause safety concerns such that regulation is required in order to avoid injury to property, skaters, skateboarders, users of in-line skates and pedestrians.

9.07.015 Restrictions on Public Property and Private Property. Persons may ride

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skateboards, roller skates, in-line skates, or similar devices within the City of Elk Grove, in areas specifically designated for the use of such devices; upon City of Elk Grove property unless signs are posted prohibiting such devices; and upon private property unless the use of such devices has been declared prohibited by the owner or person in lawful possession of the property by the posting of a sign or signs prohibiting such activity. Such signs shall be erected at each entrance to the facility or property where the prohibition shall be in effect and shall clearly state the area or specific location of prohibition.

9.07.020 Penalty for Violation. Violation of section 9.07.015 of this chapter shall be an infraction punishable by:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation; and,
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the second offense.

Chapter 9.08

FIREARMS

Sections:

9.08.010	Firearms defined
9.08.020	Discharging within City unlawful
9.08.030	Parent responsibility
9.08.040	Exceptions
9.08.050	Target range - shooting gallery
9.08.060	Hunting permit
9.08.070	Special shooting permit
9.08.080	Appeal
9.08.090	Penalty for Violation

9.08.010 Firearms Defined. For the purpose of this chapter, "firearms" includes any shotgun, rifle, pistol, revolver, or air gun, and any other weapon of similar use and design.

9.08.020 Discharging Within City Unlawful. It is unlawful for any person to use, fire or discharge any firearm within the City except as provided in Sections 9.08.040, 9.08.050, 9.08.060 and 9.08.070 herein.

9.08.030 Parent Responsibility. It is unlawful for any parent, guardian or other adult person, having the care and custody of a minor to knowingly permit or allow such minor to violate any of the provisions of this chapter. Any parent, guardian or other adult person, having the care and custody of a minor who violates the provisions of this chapter under the circumstances specified in this section shall be guilty of a misdemeanor.

9.08.040 Exceptions. The prohibitions of this chapter do not apply when the use of a firearm is necessary for the protection of life or property or to a peace officer acting in the performance of his or her duties.

9.08.050 Target Or Shooting Range. The prohibitions of this chapter do not apply to the establishment or maintenance of any pistol, rifle, target range or shooting gallery, nor to the discharge at any target thereon, by any person using such range or shooting gallery, of any rifle, shotgun, pistol, revolver, air gun, or bow and arrow in or on such range or shooting gallery; provided that such range or shooting gallery complies with the City's zoning ordinance and is so installed, constructed, safeguarded, equipped and used as to adequately prevent any bullet, shot, or missile from being projected beyond the confines of such range or shooting gallery.

9.08.060 Hunting Permit. Hunting may be permitted on parcels of land for which a hunting permit is obtained from the Police Chief of the Elk Grove Police Department. The Police Chief may issue a hunting permit provided he or she has ascertained that

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hunting on the subject land will not be dangerous to persons or property. All hunting permits shall be subject to the following conditions, violation of which shall constitute a violation of this chapter:

- (1) Hunting shall be limited to seasons as established by law;
- (2) No firearms other than shotguns may be used;
- (3) Any other conditions which the Chief of Police or his or her designee may impose for the protection of lives and property.

(a) Application for a hunting permit shall be made in writing by the owner of the land and shall contain a map showing the location of the land, number of acres and the number of hunters requested to be on the land at any one time.

(b) Any hunting permit issued shall state the number of hunters allowed on the land at any one time. The number shall be determined by the Chief of Police or his or her designee.

(c) Any person hunting on land for which a hunting permit has been issued pursuant to this chapter shall wear a distinctive emblem furnished by the permittee, who shall furnish the Elk Grove Chief of Police with a description of the emblem.

(d) A hunting permit issued pursuant to this chapter may be valid for no longer than one (1) year.

9.08.070 Special Shooting Permit. The Chief of Police or his or her designee may also issue a special shooting permit to any farmer or orchardist whose agricultural property lies within the City to shoot predatory animals or birds which destroy growing crops or fruit, upon such conditions and limitations as the Chief of Police or his or her designee may impose for the protection of lives and property.

9.08.080 Appeal. Anyone dissatisfied with the decision of the Chief of Police or his or her designee relative to an application for a hunting permit may file an administrative appeal within ten (10) days after receiving the decision pursuant to Chapter 1.11 of this Code.

9.08.090 Penalty for Violation. Any person who knowingly or recklessly violates sections 9.08.020 or 9.08.030 shall be guilty of a misdemeanor.

Chapter 9.09

BOWS AND ARROWS

Sections:

9.09.010	Purpose
9.09.020	Definitions
9.09.030	Escaping arrows prohibited
9.09.040	Penalty for violation

9.09.010 Purpose. Arrows shot from bows are inherently dangerous to life and safety. The use of bows and arrows in urbanized areas can be hazardous to neighbors in the absence of adequate precautions to assure that arrows come to rest safely upon the property from which the arrows are shot. The purpose of this chapter is to impose upon persons in control of real property the duty of assuring that arrows do not escape to adjacent property.

9.09.020 Definitions. As used in this chapter the following words have the following meanings:

(a) "Arrow" means a missile shot from a bow consisting of a straight slender shaft that has a point or sharp head of stone, metal, feathers or veins fastened near the butt, and a nock to be fitted to a bow string and any other missile of substantially similar design. As used in this chapter, "arrow" includes "quarrel."

(b) "Bow" means a device made of a strip of wood, metal, or other flexible material with a cord that connects the two ends so as to hold the strip bent in an arc under tension and used to propel an arrow on the string by nocking the arrow on the string and drawing it back against the tension so that upon release it is propelled through the air. As used in this chapter, "bow" includes "crossbow."

(c) "Crossbow" means a device having a short bow mounted crosswise near the end of a stock that resembles the stock of a rifle and that is often provided with a mechanical device by which the string is drawn back and fixed and being usually shot from the shoulder by means of a trigger that releases the string and discharges a quarrel lying in a groove in the stock.

(d) "Occupant" means a person who has and exercises the right to use and occupy real property. As used in this chapter, "occupant" means the owner of the property unless another person has the right to use and occupy the property pursuant to an agreement.

(e) "Quarrel" means a missile designed to be fired from a crossbow. As used in this chapter, "quarrel" includes, but is not limited to, an arrow.

9.09.030 Escaping Arrows Prohibited.

(a) It is unlawful for any Occupant of real property the boundaries of which are within one hundred fifty (150) yards of any neighboring building utilized as a residence or as a barn or other outbuilding in connection with residential use, to shoot with a bow from such property an arrow which escapes and lands upon adjacent property.

(b) It is unlawful for any Occupant of such real property to knowingly permit another person to utilize a bow and arrow upon such property, if the person permitted to utilize the bow and arrow shoots an arrow from such property which escapes and lands upon adjacent property.

9.09.040 Penalty for Violation. Any person who knowingly or recklessly violates this chapter shall be guilty of a misdemeanor.

Chapter 9.10

UNAUTHORIZED USE OF SHOPPING CARTS

Sections:

9.10.010	Removal
9.10.020	Abandonment
9.10.030	Possession
9.10.040	Use
9.10.050	Alteration
9.10.060	Notice
9.10.070	Penalty for violation

9.10.010 Removal. No person shall remove any shopping cart, shopping basket or other similar device from the premises or parking area of any business establishment within the City if such shopping cart, basket or device has permanently affixed to it a sign identifying it as belonging to such business establishment.

The provisions of this section shall not apply to removal by the owner or his agent or an employee of the business, nor to removal by a customer of the business possessing the written consent of its owner, manager or authorized agent.

9.10.020 Abandonment. No person shall abandon or leave any such shopping cart, shopping basket or other similar device which has been removed from the owner's premises upon any public street, alley, sidewalk, parkway or other public place within the city, nor upon any private property within the city except that of the owner of such cart, basket or device.

9.10.030 Possession. No person shall have in his or her possession any shopping cart, shopping basket or other similar device which has been removed from the owner's premises and which has permanently affixed to it a sign identifying it as belonging to a business establishment.

The provisions of this section shall not apply to possession by the owner or his agent or an employee of the business, nor to possession by a customer of the business possessing the written consent of its owner, manager or authorized agent.

9.10.040 Use. No person shall use any shopping cart, shopping basket or other similar device for any purpose other than that originally intended by such business without the owner's written consent.

9.10.050 Alteration. No person shall alter, convert or tamper with any shopping cart, shopping basket or other similar device or remove any part thereof without the owner's written consent.

9.10.060 Notice. Each business establishment owning such shopping cart, shopping

basket or other similar device shall place at each of its exits a sign notifying its customers and the general public of the aforesaid prohibitions. Such notification shall be placed in such a position and be of sufficient size and legibility so as to insure that persons leaving such places of business shall be fully informed of the prohibitory provisions contained in this chapter.

9.10.070 Penalty for Violation. Violation of this chapter shall be an infraction punishable by:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation; and,
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the second offense.

Chapter 9.11

HUMAN WASTE DISPOSAL

Sections:

- 9.11.010 Unlawful conduct
- 9.11.020 Penalty for violation

9.11.010 Unlawful Conduct. It is unlawful for any person, within the City of Elk Grove, to urinate or defecate in a public place other than a restroom, or in a place open to public view, or upon the private property of another without the owner's consent.

9.11.020 Penalty for Violation. Any person who violates this chapter shall be guilty of a misdemeanor.

Chapter 9.12

LOITERING

Sections:

- 9.12.010 Definitions
- 9.12.020 Prohibited loitering
- 9.12.030 Discretion of peace officer
- 9.12.040 Application of chapter to minors
- 9.12.050 Penalty for violation

9.12.010 Definitions. As used in this chapter the following definitions shall apply:

(a) "Loiter" or "Loitering" shall mean remaining idle in essentially one location or moving about aimlessly. It shall also include occupying a parked vehicle or one which is moving extremely slowly.

(b) "Property in the proximity of any posted no-cruising zone" shall mean any property which is both visible from and located within three hundred (300) feet of any portion of a street, alley or highway which is posted as a no-cruising zone pursuant to chapter 10.66 of the Elk Grove Municipal Code.

9.12.020 Prohibited Loitering. No person shall Loiter in such a manner as to:

- (a) Create or cause to be created a danger of a breach of the peace.
- (b) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
- (c) Obstruct the free passage of pedestrians or vehicles.
- (d) Remain upon any business premises after its business hours, without the consent of the owner or legal occupant.
- (e) Remain upon any private property without the consent of the owner or legal occupant.
- (f) Remain upon any business premises or private property after having been asked to leave by the owner or legal occupant.
- (g) Remain on any property in the proximity of any posted no-cruising zone between the hours of 6:00 p.m. of one day and 6:00 a.m. of the next day.

9.12.030 Discretion Of Peace Officer. Whenever any peace officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public or private place is causing or is likely to cause any of the conditions enumerated in section 9.12.020, he or she may, if he or she deems it necessary for the preservation of

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the public peace and safety, cite that person for violation of this chapter.

9.12.040 Application Of Chapter To Minors. Any minor who is cited for violation of section 9.12.020(g) shall be considered in violation of a traffic offense for purposes of section 256 of the California State Welfare and Institutions Code.

9.12.050 Penalty for Violation.

(a) The first violation of section 9.12.020 shall be an infraction punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation;

(2) A fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation; and,

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the second offense.

(b) Any subsequent violation of section 9.12.020, or a refusal to leave the premises after having been cited for a violation of section 9.12.020, shall be a misdemeanor.

Chapter 9.13

PROHIBITION OF PICKETING DIRECTED AT A RESIDENCE OR DWELLING

Sections:

9.13.000	Purpose
9.13.005	Picketing focusing upon a particular residence is prohibited
9.13.010	Penalty for violation

9.13.000 Purpose. The City Council of the City of Elk Grove makes the following findings:

1. It is the purpose of this chapter to protect and preserve the home through assurance that the State and Federal Constitutional right of members of this community to enjoy their homes and dwellings with a feeling of well-being, tranquility, privacy, and lack of coercion is maintained while at the same time preserving the right of citizens of this community to peacefully exercise their free speech rights as granted under the Federal First Amendment and the California Constitution. At times these rights can become competing interests as when for example picketing and demonstrating are directed and targeted at a particular residence or dwelling.

2. One important aspect of the right to residential privacy, well-being and tranquility is protection of the unwilling resident listener. Although in many locations citizens are expected to simply avoid speech they do not want to hear in order to protect free speech rights of others, the home is different as it is the citizen's last citadel when he or she is weary or tired of the world's cares. Thus, a special benefit of which all citizens have a right to enjoy within the privacy of their homes is the right to avoid unwanted intrusions and unwanted speech. The preservation and protection of the right to privacy in the home and the enjoyment of tranquility, well-being, and a sense of security in the home is in the public interest and is uniquely and critically important to the public health, safety, and welfare.

3. Picketers and demonstrators who focus upon a particular residence or dwelling generally do not seek to disseminate a message to the general public; but to harass and intrude upon the targeted resident, and to do so in an especially offensive way.

4. Even if some picketers or demonstrators have a broader communicative purpose, their activity and medium of expression when targeted at a particular residence inherently and offensively intrudes on residential privacy. Such unwelcome picketing activity creates a situation where the resident becomes captive within his or her home and the resident and household cannot readily move to another dwelling to avoid the disturbance.

5. Such picketing and demonstrating also obstructs and interferes with the free and safe use of public sidewalks and public ways of travel.

6. Therefore it is incumbent upon the City to restrict this unwelcome picketing activity that is targeted at a particular residence or dwelling by providing the resident and household therein with a boundary of protection from such unwelcome intrusions.

7. Without resort to picketing or demonstrating before or about the residence of an individual, ample alternative channels of communication exist, and will continue to exist, under the terms and provisions of this chapter to ensure the exercise of the right of free speech and assembly under the Federal and State Constitutions. This chapter does not ban general picketing or demonstrating in residential areas.

9.13.005 Picketing Focusing Upon A Particular Residence Is Prohibited.

(a) It is unlawful for any person to engage in picketing within 100 feet of a residence or dwelling of any individual within the City when such picketing is focused upon that particular residence or dwelling.

(b) The term "picketing" as used in subsection (a) of this section does not require that the individual picketing carry a sign to come within the restrictions of subsection (a).

(c) The term "focused upon" as used in subsection (a) of this section means picketing that is targeted at a residential dwelling and is fixated on that dwelling or proceeds on a definite course or route in front of or anywhere around the perimeter of that particular residence or dwelling.

(d) The terms "within 100 feet of a residence or dwelling" as used in subsection (a) of this section shall be measured around the perimeter of the residence or dwelling measured from the outer walls of the structure. An attached garage shall be considered part of the dwelling or residence.

(e) Subsection (a) does not prohibit picketing in a residential neighborhood so long as the picketing is not focused upon a particular residence or dwelling. Picketing activity such as, but not limited to, marching, parading, demonstrating, walking a route in front of an entire block of houses is not prohibited by subsection (a) so long as the picketing is not focused upon a particular residence or dwelling.

(f) Subsection (a) shall not apply to a residence which is used as a place of business, or is used for a public meeting, or when picketers are present at the invitation and with the consent of the resident.

(g) Nothing within this chapter shall be construed so as to permit entry into private property without the resident's consent for picketing purposes.

9.13.010 Penalty for Violation. Violation of this chapter shall be an infraction punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation;

(2) A fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation; and,

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the second offense.

CHAPTER 9.14

POSSESSION OF OPEN CONTAINERS CONTAINING ALCOHOLIC BEVERAGES IN ANY PRIVATE OFF-STREET PARKING FACILITY

Sections:

- 9.14.010 Designation of facilities
- 9.14.020 Possession of open containers unlawful
- 9.14.030 Posting of premises
- 9.14.040 Penalty for violation

9.14.010 Designation Of Facilities. The City Council may by resolution find and declare that there are privately owned and maintained off-street parking facilities, as described in the resolution, within the City that are generally held open for use of the public for purposes of vehicular parking to which this chapter shall be applicable.

9.14.020 Possession Of Open Containers Unlawful. It shall be unlawful for any person to possess any can, bottle or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, in any privately owned and maintained off-street parking facility that the City Council has designated as being generally held open for use of the public for purposes of vehicular parking pursuant to Section 9.14.010 of this chapter.

9.14.030 Posting Of Premises. Notwithstanding the provisions of Section 9.14.020, this chapter shall not apply to any off-street parking facility described therein unless the owner or operator has caused to be posted at each entrance to the off-street parking facility clearly visible notices indicating that the provisions of Section 9.14.020 are applicable to the facility.

9.14.040 Penalty for Violation. Violation of this chapter shall be an infraction punishable by:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation; and,
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the second offense.

Chapter 9.15

UNAUTHORIZED USE OF TOWERS

Sections:

- 9.15.010 Definitions
- 9.15.020 Prohibited activity
- 9.15.030 Exceptions
- 9.15.040 Penalty for violation

9.15.010 Definitions. The term "Tower" or "Towers" as used herein refers to any radio, television, broadcasting or receiving Towers and similar structures, which are located in the City of Elk Grove.

9.15.020 Prohibited Activity.

(a) It shall be unlawful for any person to climb upon any Tower in the City of Elk Grove without the express written authorization of the owner of the Tower.

(b) It shall be unlawful for any person to climb upon any Tower in the City of Elk Grove for the purpose of parachuting, jumping, sailing or otherwise floating off the Tower.

(1) There shall be a rebuttable presumption pursuant to section 606 of the California Evidence Code that any person or persons who climb a Tower with a parachute or other fall breaking apparatus in their possession are climbing the Tower for the purpose of parachuting, jumping, sailing or otherwise floating off the Tower as prohibited herein.

(c) It shall be unlawful for any person to parachute, jump, sail or otherwise float off any Tower in Elk Grove for the purposes of parachuting, jumping, sailing or otherwise floating to the ground.

9.15.030 Exceptions. The provisions of section 9.15.040(a) shall not apply to owners of Towers or their authorized employees or agents.

9.15.040 Penalty For Violation.

(a) Any person who violates the provisions of section 9.15.040(a) shall be guilty of an infraction, and upon conviction, shall be punished as follows:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation of section 9.15.040(a);

(2) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation;

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of within one (1) year of the first violation.

(b) Any person who violates the provisions of section 9.15.040(b) or (c) shall be guilty of a misdemeanor.

Chapter 9.16

EMERGENCY ALARMS

Sections:

- 9.16.010 Purpose and authority
- 9.16.020 Definitions
- 9.16.030 Permit required
- 9.16.040 Alarm application permit and fee
- 9.16.050 Renewals, reapplications and information changes
- 9.16.060 False alarms
- 9.16.070 Responsibility for alarm service - audible or silent
- 9.16.080 Suspension of permit
- 9.16.090 Appeal
- 9.16.100 Issuance of administrative citations
- 9.16.110 Audible alarm systems
- 9.16.120 Automatic calling/dialing systems prohibited
- 9.16.130 Violation of chapter

9.16.010 Purpose And Authority. The City Council finds and determines that the responsible use of alarm systems facilitates the effective and efficient response to alarms by the Elk Grove Police Department and is in the best interests of the people of the City of Elk Grove. A permit is required to operate an alarm system and the fee for the permit covers the estimated reasonable cost of administering this ordinance and regulating alarm systems. Reducing the number of false alarms and unnecessary responses by the Elk Grove Police Department is consistent with the public health and safety. This ordinance is not intended to interfere with contractual obligations between alarm businesses and alarm users or to supersede any provisions of State law.

9.16.020 Definitions. For the purpose of this chapter, the following definitions shall apply and are listed below alphabetically:

“Alarm agent” shall mean a person employed by an alarm company operator whose duties include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding or monitoring an alarm system, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described herein.

“Alarm company operator” shall mean any person who, for any consideration whatsoever, engages in business or accepts employment to install, maintain, alter, sell on premises, monitor, or service alarm systems or who responds to alarm system except for any alarm agent. “Alarm company operator,” however, does not include a business which merely sells from a fixed location or manufacturers alarms systems unless the business services, installs, sells on premises, monitors, or responds to alarm systems at the protected premises.

“Alarm system” shall mean any mechanical and/or electrical device designed for the detection of an unauthorized entry on real property premises, or for alerting others of the commission of an unlawful act or both; and when actuated, emits a sound or transmits a signal to indicate that an emergency situation exists, and which may prompt police to respond.

Alarm systems include, but are not limited to, silent alarms, audible alarms, and direct dial telephone devices. The following devices shall not constitute alarm systems within the meaning of this section:

- (1) Devices which are not installed, operated, or used for the purpose of reporting an emergency to the Police Department;
- (2) Alarm devices affixed to motor vehicles, trailers or trailer coaches (as defined in California Vehicle Code Sections 415, 630 and 635), vessels, or aircraft;
- (3) Alarm devices installed on a temporary basis by the Police Department.

“Alarm user” shall mean any person using an alarm system at his/her place of business or residence.

“Audible alarm” shall mean a device designed for the detection of an unauthorized entry on, or an attempted entry into premises or a structure; or for alerting others of the commission of an unlawful act, or both, and which, when activated, generates an audible sound on or off the premises.

“Automatic calling/dialing system” shall mean an alarm system which automatically sends over telephone lines, by direct connect or otherwise, a recorded message indicating an emergency situation exists.

“Central monitoring station” shall mean any office, station, or telephone answering service where person(s) monitor and/or receive emergency signals from alarm systems, and thereafter, relay messages from such signals by live voice to the Elk Grove Police Department Telecommunications Center.

“Direct connect” shall mean an alarm system which has the capability of transmitting system signals to, and receiving them at, an agency maintained by a local government entity such as the City of Elk Grove at its Elk Grove 911 call center.

“False alarm” shall mean the activation of an alarm system through mechanical failure, malfunction, improper installation or maintenance, or the negligence of the owner, lessee, or of his/her employees or agents, which activates response by law enforcement or other emergency response providers when an emergency condition does not exist; provided, however, alarms caused by acts of nature such as earthquakes, floods, tornadoes, or other violent, uncontrollable acts of nature shall not be considered false alarms.

“Interconnect” means to connect an alarm system to a telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

“Nonpriority” shall mean that police response to the activation of an alarm shall not be given precedence over other calls and will be predicated upon availability of police units and other service needs.

“Panic Alarm” means any device or system designed to alert law enforcement of a violent act or an immediate present threat of a violent act by manually activating a switch or button.

“Permittee” means the person to whom an alarm system permit is issued.

“Person” shall mean any individual, partnership, corporation, or other entity.

“Police Chief” shall mean the Police Chief of the City of Elk Grove or the Police Chief’s designee.

“Primary Trunk line” means any telephone line, including 911 emergency lines, leading directly into the Communications Center of the Elk Grove Police Department for the purpose of handling emergency calls on a person- to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company, covering the service area within the Elk Grove Police Department’s jurisdiction.

“Silent alarm” shall mean any mechanical and/or electrical device designed for the detection of unauthorized entry on premises or for alerting another of the commission of an unlawful act which transmits a signal to a monitored, remote location.

“Standby power backup” shall mean any auxiliary, secondary, or back-up power source capable of supplying adequate power to properly operate an alarm system should the primary power source be interrupted.

9.16.030 Permit Required.

(a) Alarm User.

(1) Except as otherwise provided hereafter, it shall be unlawful for any person to connect, or operate, or to cause to be connected, or operated, an alarm system in the City of Elk Grove without obtaining a valid alarm system permit within fifteen (15) days of connecting or commencing to operate an alarm system and keeping a valid alarm system permit in full force and effect at all times thereafter.

(2) The application for an alarm system permit shall include an agreement, which the applicant must sign before the permit is issued, whereby the applicant/permittee agrees to reimburse the City for costs incurred by the City resulting from false alarms.

(3) Persons owning or in possession of property on which an alarm system exists shall be responsible for securing the proper alarm system permit and such permit shall be issued only to the person who owns or is in possession of the property on which the alarm system exists.

(4) The Chief of Police shall issue the alarm system permit within a reasonable period following the date of receipt of application, unless the alarm system does not comply with the specifications contained in this chapter, the applicant has failed to pay the required fee, or the application contains a misrepresentation of fact.

(5) In the event the Chief of Police denies the permit to an applicant for any of the reasons set forth in Subsection (4), the applicant shall have the right to a hearing concerning the denial pursuant to Sections 9.16.090 through 9.16.100

(6) Any person who operates an alarm system without obtaining a permit as set forth in subsection (a)(1), above, shall obtain a permit within 30 days of receipt of a notice from the Elk Grove Police Department that a permit is required and shall pay the fee set forth in Section 9.16.040. Failure to obtain a permit and pay fees within 30 days of notice shall result in a fine as determined by resolution of the City Council.

(7) Payment of Fee: An invoice shall be mailed to the alarm operator within thirty (30) days following the assessment of the fee. Fees are due and owing not later than thirty (30) days after the date of mailing the invoice. The date of mailing shall appear on the invoice. Fees received after the due date shall be subject to a late fee as determined by resolution of the City Council. Fees received more than sixty (60) days after the due date shall be subject to an additional late fee as determined by resolution of the City Council.

(b) Alarm Companies.

(1) No alarm company shall perform any installation, connection or maintenance of any alarm system in the City for which a valid permit has not been issued. The alarm company shall verify the existence of a valid permit either by obtaining a valid permit for the alarm user or by confirming the prior issuance of a permit, in writing, with the Elk Grove Police Department. Any installation, connection or maintenance of any alarm system by an alarm company for which no valid permit has been issued is an infraction punishable by a fine as determined by resolution of the City Council.

(2) Any alarm company operator notified by the Elk Grove Police Department that an alarm system user's permit has been suspended, revoked, or not renewed, shall discontinue any and all service on such system within fifteen days of notification.

9.16.040 Alarm Application Permit And Fee.

(a) Applications and reapplications for all permits required by this chapter shall be filed with the Elk Grove Police Department and shall be accompanied by fees set by resolution of the City Council. The fees are established to cover part of the cost of investigating and processing the applications, notices and permits and are not refundable. The Elk Grove Police Department shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. Permits shall be for a term of three (3) years.

(b) The application for an alarm system permit shall include an agreement, which the applicant must sign before the permit can be issued, whereby the applicant agrees to reimburse the City for a portion of the costs incurred by the City resulting from false alarms.

9.16.050 Renewals, Reapplications And Information Changes.

(a) Renewals. In order for the Police Department to update and verify records, each permittee shall be required to renew alarm system permits issued every three (3) years for residential and businesses. Renewals will be at no cost if updated information is received before the three (3) year expiration of the permit. Failure to update information will result in a reapplication.

(b) Reapplications. Permittees shall reapply for an alarm permit under any of the following conditions:

1. Whenever a permit has been revoked pursuant to this chapter;
2. Whenever a permit has expired and no renewal has been applied for within fifteen days prior to the expiration date; or
3. Whenever additional systems are added to the premises, business or property.

(c) Information changes. The permittee shall inform the Elk Grove Police Department of any changes to information on the application within ten (10) days of such change. No fee shall be assessed to correct the information.

9.16.060 False Alarms.

(a) Three or more false alarms in any calendar year shall result in the imposition of a fine as determined by resolution of the City Council. All fines shall be payable to the

City of Elk Grove.

(b) **Payment of Fines:** An invoice shall be mailed to the alarm user within thirty (30) days of the false alarm. The fine is due and owing not later than thirty (30) days after the date of mailing the invoice. The date of mailing shall appear on the invoice.

(c) **Discontinuance of Response:** In addition to any other action that may be taken by the Elk Grove Police Department pursuant to this Chapter, the Chief of Police or his/her designee may discontinue responding to an alarm at any location if the Alarm user has not corrected the conditions that cause false alarms after the sixth false alarm within a calendar year. The period of non-response shall be determined by the Chief of Police, but shall not exceed six months. The Chief of Police may shorten the period of non-response upon receipt of satisfactory evidence that the problem creating the false alarms has been corrected. In addition, the Chief of Police may discontinue responding to false alarms at a location if the Alarm user at the location has failed to pay any false alarm fine(s) sixty (60) days after the date an invoice was mailed to the Alarm user, until such time as such fines are paid, plus an additional five (5) business days in order to allow sufficient time to process payments.

(d) **Appeal:** Any person may appeal the assessment of a false alarm fine by filing a Notice of Appeal with the Elk Grove Police Department within fifteen (15) days of the mailing of the invoice. The invoice shall advise the person to whom the fine is assessed of the right to appeal. The Notice of Appeal shall state all reasons why the appealing party believes that the fine was improperly assessed and shall be accompanied by any documentary evidence that the appealing party wishes to be considered. The appeal and all documentation shall be reviewed by the Chief of Police or the Chief of Police's designee. The decision of the Chief of Police or the Chief of Police's designee shall be final. In the event that it is determined that the false alarm fine was improperly assessed, the fine shall be canceled.

9.16.070 Responsibility For Alarm Service - Audible or Silent. In case of either an audible or a silent alarm, the person or persons named in the alarm permit application or a person whose name is on file with the Police Department as a designated responding party shall, upon proper notification, proceed immediately to the location of the activated alarm and provide access to the premises to allow the Police Department to properly secure such premises.

All alarm service companies which contract to provide alarm response services within the City shall maintain service personnel on duty twenty-four (24) hours a day to provide for such responses.

9.16.080 Suspension Of Permit. When grounds as hereafter provided exist, the Chief of Police may determine to suspend a permit. Suspensions of permits shall be for a maximum of three hundred sixty-five (365) calendar days. Use of the alarm system during a suspension of the permit shall be a violation of this chapter.

The following shall constitute grounds for suspension of an alarm permit:

- (a) The violation of any of the provisions of this chapter.
- (b) A false statement on the permit application.
- (c) Failure to pay any fee or fine assessed pursuant to this Chapter.
- (e) Six (6) or more false alarms during any calendar year.

9.16.090 Appeal. If an application for a permit is denied or a permit is to be considered for suspension pursuant to Section 9.16.080 the Chief of Police shall serve on the applicant or permittee a written notice of the Chief of Police's proposed action including, in the case of suspension, the length of the proposed suspension, and of the right to a hearing on the matter. Service shall be by certified/registered mail to the applicant's or permittee's last known address. Service shall be considered complete five (5) days after such mailing.

Any decision for a denial or suspension of a permit may be appealed pursuant to the appeals procedure set forth in Chapter 1.11 of this Code.

9.16.100 Issuance Of Administrative Citations. Any person authorized to enforce provisions of this Chapter may, in addition to any other means of enforcement, issue administrative citations to enforce the provisions of this Chapter pursuant to the administrative citation procedures set forth in Chapter 1.12 of this Code.

9.16.110 Audible Alarm Systems.

- (a) Sirens Prohibited.

(1) No alarm system which has an audible alarm and which emits the sound of a siren shall be installed or connected on the outside of any building in the City, on or after the effective date of the ordinance. This section shall not be construed to prohibit the use of certain electronic horns or howlers that may be approved by the Chief of Police or the Chief of Police's designee.

(2) Any alarm system which has an audible alarm and which emits the sound of a siren and which is installed and in operation prior to the effective date of this ordinance codified in this chapter shall be disconnected within thirty days after the effective date of the ordinance. Anyone who installs or permits the installation of, or uses such an alarm system, is guilty of an infraction as provided in Section 9.16.130.

- (b) Automatic Shutoff Required. Any alarm system which is installed or connected on or after the effective date of this ordinance and which, when activated, generates an audible alarm on the exterior of the structure in which the system is maintained, shall have as part of the alarm system an automatic shutoff device which shuts off the alarm

system within twenty minutes of initial activation. Any alarm system which is installed and in operation prior to the date the ordinance codified in this chapter becomes effective and which, when activated, generates an audible sound on the exterior of the structure in which the system is maintained, shall have such an automatic shutoff device, as described above, installed and in operation within sixty days after the effective date of the ordinance codified in this chapter.

(1) Any person who uses, or causes the installation of, an alarm system without the required shutoff is guilty of an infraction.

(2) Any alarm company who installs an alarm system without the required shutoff is guilty of an infraction.

9.16.120 Automatic Calling/Dialing Systems Prohibited.

(a) No automatic dialing device shall be interconnected to a primary trunk line of the police department. Any person who makes or permits the interconnection is guilty of an infraction.

(b) Persons owning or leasing an automatic dialing systems may have the device interconnected to a telephone line transmitting directly to:

1. A central station;
2. A modified central station; or
3. An answering service.

(c) The relaying of messages to the police department by a central monitoring station, modified central station, or an answering service shall be over a primary trunk line.

(d) No automatic dialing system may be interconnected to the telephone operator, city telephone operator, or 911 emergency center operator.

9.16.130 Violation Of Chapter.

(a) Except as otherwise specifically provided, pursuant to the provisions of Government Code Section 36900, violation of any of the provisions contained in this Chapter shall constitute an infraction punishable by fines as determined by resolution of the City Council.

The City Manager, or the Manager's designee, is the official charged with the responsibility for administering the provisions of this Chapter. Pursuant to the provisions of Section 836.5 of the Penal Code, the Elk Grove Police Department shall be authorized to enforce and arrest persons without a warrant for violations of the

provisions of this Chapter.

The City Manager, or his designee, is hereby empowered to seek recovery of the fines or false alarm service fees by civil action in small claims court.

(b) All remedies set forth in this Chapter are cumulative and the use of one or more remedies shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

Chapter 9.17

ON-SITE SECURITY REQUIREMENT

Sections:

- 9.17.010 Purpose
- 9.17.020 Definitions
- 9.17.030 Security Plan May Be Required for Specified Businesses
- 9.17.040 Chief of Police May Determine That a Security Plan is Required
- 9.17.050 Notice and Enforcement Process
- 9.17.060 Payment Required for Businesses, Which Do Not Comply with this Chapter
- 9.17.070 Appeal

9.17.010 Purpose. The high cost of police protection, and the potential for certain businesses which operate in a way which causes threats to the public safety and a commensurate increase in the demand for police services, requires that the City implement measures to ensure that residents and businesses in Elk Grove do not receive inadequate levels of police services as the result of the allocation of resources to serve businesses which are operated in an irresponsible manner. This Chapter provides for implementation of measures to ensure that the public's safety is protected, and that the City is reimbursed for the cost of providing services to businesses, which operate with a demonstrated disregard for safety. (COEG Ord. 09-2003, eff. 05-16-03)

9.17.020 Definitions. The following definitions shall be used in this Chapter:

(a) "Business" shall mean any business, including retail, office, industrial, warehousing, and other types of non-residential land uses.

Chief of Police shall be the Chief of Police of the Elk Grove Police Department, or his or her designated representative.

(b) "Call for Service" shall mean any request, which results in the dispatching of uniformed police officers to a location, regardless of the source of the request.

Incident shall be any occurrence at a place of business, which results in a Call for Service.

(c) "Private Security Officer" shall have the same meaning as defined in Section 7582.1(e) of the State of California Business and Professions Code.

(d) Private Security Operator and Private Security Service shall have the same meaning as defined in Section 7582.1(a) of the State of California Business and Professions Code. (COEG Ord. 09-2003, eff. 05-16-03)

9.17.030 Security Plan May Be Required For Specified Businesses. The City of Elk

Grove may require that individual businesses or the management of larger centers provide a security plan, including but not limited to, on-site security provided by a Private Security Operator or Private Security Service, in order to protect the public safety and to reduce the added costs to the City which result from a need for police protection which exceeds that which would be considered normal and reasonable. (COEG Ord. 09-2003, eff. 05-16-03)

9.17.040 Chief Of Police May Determine That A Security Plan Is Required. The Chief of Police may decide, based on either the number of calls for service from a business or from a business center or on the severity of an individual incident or incidents requiring police response, that the business or business center is subject to the requirements of this Chapter. The Chief of Police's decision may be appealed as provided in this Chapter. (COEG Ord. 09-2003, eff. 05-16-03)

9.17.050 Notice And Enforcement Process.

(a) Upon determining that a business or business center is subject to this Chapter based on the number or calls or severity of incidents, the Chief of Police shall notify the business owner or business center management in writing. The notice shall specify the calls and/or incidents upon which the determination is based. The notice shall require the business owner or business center management to provide to the Chief of Police a plan for improving the operation, design, hours of operation, etc., of the business or center to address the public safety issues identified. The plan shall also include a method of and a commitment to implementation at the business and/or center. The written notice shall include a deadline for response of not less than seven (7) or more than fourteen (14) calendar days. Upon the written request by the business owner or owner of the center submitted before the expiration of the time for a response, the Chief of Police may, in writing, grant an extension of the time in which a response is required.

(b) The Chief of Police shall review the plan from the business owner or business center management and determine if the suggested plan for improving operation, design, etc., is sufficient to address the identified public safety issues. If the Chief of Police determines that the suggested plan is sufficient to address the identified safety issues, the Chief of Police shall approve the plan and no further action will be taken, provided that the suggested plan is implemented.

(c) If the Chief of Police determines that the proposed plan is not sufficient to address the identified safety issues, or if no response is received, the Chief of Police shall develop a plan to address the identified safety issues. This plan may include any reasonable changes in the design, operation, hours of operation, etc., as necessary, and may specifically include a requirement for the provision at no cost to the City of onsite Private Security Officers employed by a Private Security Operator or Private Security Service. The Chief of Police shall notify the business or business center in writing of the plan, and shall specify a reasonable deadline for compliance. (COEG Ord. 09-2003, eff. 05-16-03)

9.17.060 Payment Required From Businesses That Do Not Comply With This Chapter. Businesses or business centers may be charged by the City for the cost of all calls for service to the location if they fail to comply with this Chapter by:

- (1) failing to respond to the initial notice from the Chief of Police, or
- (2) failing to comply with any plan approved or imposed by the Chief of Police pursuant to this Chapter. The rate of charge shall be determined by the City based on direct and indirect personnel, equipment, and other costs of calls to the location. (COEG Ord. 09-2003, eff. 05-16-03)

9.17.070 Appeal. All decisions of the Chief of Police pursuant to this Chapter may be appealed. Such appeals of decisions of the Chief of Police pursuant to this Chapter shall be determined the City Manager in writing. No personal hearing before the City Manager is required. In determining the appeal, the City Manager shall give deference to decisions by the Chief of Police supported by substantial evidence. Decisions by the City Manager pursuant to this Chapter may be appealed to the City Council, which shall decide the matter giving deference to decisions by the Chief of Police supported by substantial evidence. All points to be asserted in an Appeal shall be submitted in writing not less than ten (10) calendar days after the receipt of the written decision by the Chief of Police, or City Manager.

The City Manager shall decide the appeal in writing within 10 business days after the matter has been submitted by the business or business center. The City Council shall hear any appeal no later than the second regular meeting after the filing of the appeal from the City Manager's decision. The City Council shall determine the appeal no later than the next regular meeting of the City Council after the appeal hearing. No business or business center shall be required to implement a security plan while an appeal is pending. (COEG Ord. 09-2003, eff. 05-16-03)

Chapter 9.18

DISPLAY OF HARMFUL MATTER TO MINORS

Sections:

- 9.18.000 Purposes
- 9.18.010 Definitions
- 9.18.020 Display in business establishments
- 9.18.030 Display in news racks or vending devices
- 9.18.040 Exhibition in display windows
- 9.18.050 Violation

9.18.000 Purpose. The City Council hereby finds that the Exhibition of Harmful Matter to Minors seriously threatens to corrupt their morals and character.

The interior of Business Establishments to which members of the general public are admitted constitute "public places" as referenced in Penal Code section 313.1(d). Business Establishments to which members of the general public are admitted are not, when entered by Minors, "a public place from which minors are excluded" as referenced in section Penal Code 313.1(d). It is the intent of this chapter to require Business Establishments frequented by members of the general public to either: (i) prevent Minors from entering; or (ii) shield Harmful Matter which Minors may see with Blinder Racks in the manner prescribed herein.

It is also the purpose of this chapter to require Blinder Racks shielding from view Harmful Matter which may be viewed by Minors from Public Property.

9.18.010 Definitions. For purposes of this chapter, the following definitions shall apply.

(a) The term "Blinder Racks" shall mean any opaque item or device which rests on or in front of Harmful Matter in such a manner that the lower two-thirds of the Matter is not exposed to view.

(b) The term "Business Establishment" shall mean any indoor or outdoor commercial enterprise which Distributes or Exhibits Harmful Matter in such a manner that the Harmful Matter can be viewed by patrons inside the enterprise.

(c) The terms "Distribute" or "Distribution" shall mean to transfer possession of, whether with or without consideration.

(d) The terms "Exhibit" or "Exhibition" shall mean to show.

(e) The term "Harmful" shall have the same meaning as the phrase "Harmful Matter" as defined in section 313(a) of the California Penal Code, as said section may hereafter be amended.

(f) The term "Matter" shall mean any book, magazine, newspaper, or other printed or written material, or any picture, drawing or photograph, or any statue or other figure.

(g) The term "Minor" shall mean any natural person who is under the age of eighteen years.

(h) The terms "News Rack" or "Vending Device" shall mean a privately owned mechanism which is located on Public Property or located on private property in such a manner that the contents can be viewed by members of the general public from Public Property, and which contains Harmful Matter for purposes of Distribution or Exhibition which can be seen by the general public from Public Property.

(i) The term "Person" shall mean any corporation, partnership or sole proprietorship which owns a Business Establishment, News Rack or Vending Device, and any natural person who is responsible for the operation or maintenance of a Business Establishment, News Rack or Vending Machine, including, but not limited to, clerks who are responsible for on-site operation or maintenance of a Business Establishment.

(j) The term "Public Property" shall mean any: (i) sidewalk, pathway or street which is open to and traveled or utilized by members of the general public, whether legal title thereto is privately held or vested in a public agency, including, but not limited to, common areas in shopping malls frequented by patrons to gain access to retail enterprises; and (ii) parks, land or buildings operated by and in which a public agency possesses a property interest, which are open to members of the general public.

9.18.020 Display In Business Establishments. It shall be unlawful for any Person to own, operate or maintain any Business Establishment within the City to which members of the general public are admitted, unless at the time any Minor is within the Establishment Blinder Racks are placed in front of all Harmful Matter subject to view by patrons.

The provisions of this section shall not be construed to require placement of Blinder Racks in front of Harmful Matter displayed within a separate room or partitioned area within the interior of a Business Establishment frequented by Minors when the Harmful Matter cannot be viewed from other areas of the Establishment, unless Minors enter the separate room or partitioned area where the Harmful Matter is displayed.

9.18.030 Display In News Racks Or Vending Devices. It shall be unlawful for any Person to own, operate or maintain a News Rack or Vending Device within the City, unless Blinder Racks are placed in front of Harmful Matter thereon or contained therein.

9.18.040 Exhibition In Display Windows. It shall be unlawful for any Person who owns, operates or maintains a Business Establishment within the City to place Harmful Matter in a display window within the Establishment in such a manner that the Harmful Matter can be viewed by members of the general public from Public Property, unless Blinder Racks are placed in front of the Harmful Matter.

9.18.050 Penalty for Violation.

(a) Any person who violates the provisions of this chapter shall be guilty of an infraction, and upon conviction, shall be punished as follows:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year;
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

Section 5: 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 6: 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 7: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 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 NO. 27-2007
INTRODUCED: August 22, 2007
ADOPTED:
EFFECTIVE:

JAMES COOPER, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

PEGGY E. JACKSON, CITY CLERK

SUSAN COCHRAN, CITY ATTORNEY