

AGENDA ITEM NO. 8.7

ORDINANCE NO. 8-2010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING ELK GROVE MUNICIPAL CODE SECTIONS 16.20.100 AND 16.20.200 RELATING TO "HOUSING CODE"

WHEREAS, Elk Grove Municipal Code Chapter 16.20 "Housing Code" currently contains language adopted by the City upon incorporation and this current language should be amended to improve the definition of a substandard; and

WHEREAS, the proposed amendments state much more clearly what constitutes a substandard dwelling and states that occupying such a dwelling in Elk Grove is illegal; and

WHEREAS, to live in a residential dwelling that does not have the basic utilities necessary for habitation poses a significant public safety hazard to both the occupants and neighbors.

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

Section 1: Amendment

Elk Grove Municipal Code Section 16.20.100, "Definitions" is amended to read as follows

16.20.100 Definitions.

For purposes of this chapter, the following definitions shall apply:

A. Reserved for future use.

B. "B" Definitions.

1. "Building" shall mean a structure or part thereof.
2. "Building Code" is the Uniform Building Code adopted pursuant to EGMC Chapter 16.04.

C. "C" Definitions.

1. "Clerk" means the City Clerk, or his or her designated representative.
2. "Complaint" means notification by any person, lodged with the Code Enforcement Division of the City of Elk Grove, of a violation or a suspected violation of the housing code or this chapter.

D. "D" Definitions.

1. "Demolish" means to destroy a building and to remove all debris and waste materials from the lot on which the building stood.
2. "Department" means the Planning Department of the City of Elk Grove.

3. "Director" shall mean the Planning Director of the Planning Department of the City of Elk Grove or his or her designated representatives.

4. "Displaced." A tenant is "displaced," within the meaning of this chapter, if the tenant is ordered to move out of a rented dwelling unit or structure by an order to vacate issued by the City.

5. "Dwelling" shall mean any building or structure or part thereof used and occupied for human habitation or intended to be so used, and includes any garages or other accessory buildings belonging thereto, including those which are rented or leased for any term or duration, type or tenure.

6. "Dwelling unit" shall mean any room or group of rooms located within a dwelling and forming a single unit with the facilities which are used or intended to be used for living, sleeping, cooking, or eating.

E. "E" Definitions.

1. "Electrical Code" is the National Electrical Code as adopted and as modified by the City of Elk Grove Electrical Code set forth in EGMC Chapter 16.28.

2. "Enforcement" means diligent effort to secure compliance or abatement, including review of plans and permit applications, response to complaints, citation of violations, and other legal process. Except as otherwise provided in this chapter, "enforcement" may, but need not, include inspections of existing buildings on which no complaint or permit application has been filed, and efforts to secure compliance as to such existing buildings.

F. "F" Definitions.

1. "Fire Chief" shall mean the Fire Chief of the Cosumnes Community Services District Fire Department.

2. "Fire Code" is the Uniform Fire Code adopted pursuant to EGMC Chapter 17.04.

G. Reserved for future use.

H. "H" Definitions.

1. "Hearing Officer" means an active member of the Bar of the State of California appointed by the City Manager to hear matters as provided for and described in this chapter. The Hearing Officer shall also serve as the housing appeals board as that term is used in the State Housing Law.

2. "Housing code" means this chapter and includes the building code, the electrical code, the mechanical code, the plumbing code and the State Housing Law.

3. "Housing code enforcement fund" means the housing code enforcement fund established by this chapter.

4. "Housing stock conservation fee" means the fee assessed under this chapter for each rental dwelling unit.

I. Reserved for future use.

J. Reserved for future use.

K. Reserved for future use.

L. "L" Definitions.

1. "Landlord" means an owner, lessor, or sublessor (including any person, firm, corporation, partnership, or other entity) who receives or is entitled to receive rent for the use of any dwelling, or the agent, representative, or successor of any of the foregoing.

M. . "M" Definitions.

1. "Mechanical Code" is the Uniform Mechanical Code adopted pursuant to EGMC Chapter 16.32.

N. Reserved for future use.

O. "O" Definitions.

1. "Occupant" shall mean any person over one (1) year of age living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit.

2. "Occupied" shall mean any actions associated with living in or occupying a property including, but not limited to, sleeping, cooking, eating, bathing, and dressing.

3. "Order to vacate" means a written notice served by an authorized City official on the owner and posted on the affected property declaring that, due to failure to repair or maintain, the dwelling shall be vacated.

4. "Owner" means the owner of fee title to a dwelling unit.

P. "P" Definitions.

1. "Parties in interest" shall mean all persons, businesses, partnerships, and corporations who have a mortgage or other interest of public record in a dwelling or dwelling unit, or who are in possession thereof.

2. "Plumbing Code" is the Uniform Plumbing Code adopted pursuant to EGMC Chapter 16.24.

3. "Program" means the housing code enforcement program created under this chapter.

4. "Proof of compliance" means documentation, on such form and in such manner as the Director may provide, that the deficiencies noted in the order or citation issued by the City have been corrected.

5. "Public record" shall mean deeds, mortgages and other instruments of record relating to land titles and recorded by the Sacramento County Clerk-Recorder.

Q. Reserved for future use.

R. "R" Definitions.

1. "REAP" means the rent escrow account program provided by this chapter.

2. "REAP account" means the account established by this chapter, of that name, which shall be established and maintained by the Finance Director of the City either as an account or a fund, and may, for the purpose of accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a

fund; but all such records with respect to any such fund shall at all times be maintained in accordance with sound accounting practice.

3. "Repair and demolition fund" means the fund established by this chapter, of that name, which shall be established and maintained by the Finance Director of the City either as an account or a fund, and may, for the purpose of accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund; all such records with respect to any such fund shall at all times be maintained in accordance with sound accounting practice.

4. "Rental dwelling unit" means a dwelling unit rented for any tenure, type or price.

S. "S" Definitions.

1. "State Housing Law" means Division 13, Part 1.5 of the Health and Safety Code (commencing at Section 17913) and Article I (commencing at Section 1) of Chapter 1, Title 25 of the California Code of Regulation.

2. "Substandard dwelling" shall have the same meaning as substandard building as set forth in Section 17920.3 of the Health and Safety Code, or any successor statute.

T. "T" Definitions.

1. "Tenant" means the individual or individuals occupying a rental dwelling unit.

U. "U" Definitions.

1. "Untenantable Rental Dwelling Unit." A rental dwelling unit shall be deemed "untenantable," for the purposes of this chapter, if it or the common area of the dwelling, structure, or premises in which it is located is the subject of a Housing Code citation or order pursuant to this chapter and substantially lacks any of the affirmative standard characteristics set forth in Section 1941.1 of the Civil Code.

2. "Utilities" means Electrical, Sewer, Natural Gas and Water services provided by the local service provider or provided under other means as approved by finalized permit with the Elk Grove Building and Safety Inspection Department.

V. "V" Definitions.

1. "Vacation date" means the date by which a tenant is required to vacate a rental dwelling unit, pursuant to an order by an authorized City official.

W. Reserved for future use.

X. Reserved for future use.

Y. Reserved for future use.

Z. Reserved for future use.

Section 2: Amendment

Elk Grove Municipal Code Section 16.20.200, "Violations" is hereby amended to read as follows:

16.20.200 Violations.

...

E. Any residential dwelling shall be considered substandard and uninhabitable should the dwelling not possess an operable connection to all utilities. It shall be unlawful for any substandard dwelling as defined here to be occupied until operable utility connections have been established.

F. Removing Notice and Order without Inspection. It shall be unlawful and a violation of this code for any individual to remove a notice to vacate attached to the structure of a vacant dwelling unit which is the subject of a pending enforcement action under this chapter, until such dwelling unit has been inspected by the City for housing code compliance, and has passed such inspection, and written evidence thereof has been received. For purposes of this section, a dwelling unit is the subject of a pending enforcement action under this chapter if all repairs and work required by a notice and order previously issued, amended, or supplemented by the City concerning such dwelling unit have not been completed with all required building permit inspections finalized. Any person violating this subsection may be charged with either an infraction or misdemeanor offense as provided in EGMC Chapter 16.18.

G. Removing Boards. It shall be unlawful and a violation of this code for any person to remove, deface or destroy any boards placed by the Director pursuant to EGMC Chapter 16.23 without prior written permission of the Director. Any person violating this subsection may be charged with either an infraction or misdemeanor offense as provided in EGMC Chapter 16.18.

Section 3: No Mandatory Duty of Care

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4: Severability

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity

of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 5: Savings Clause.

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 6: 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 Government Code section 36933(c)(1).

ORDINANCE: **8-2010**
INTRODUCED: March 24, 2010
ADOPTED:
EFFECTIVE:

SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

SUSAN J. BLACKSTON, CITY CLERK

SUSAN COCHRAN, CITY ATTORNEY

Date signed: _____