

**ORDINANCE NO. 22-2005**

**AN URGENCY ORDINANCE AMENDING ORDINANCE 20-2005  
OF THE CITY OF ELK GROVE RELATING TO PARKS  
CLARIFYING THE INTENT AND OPERATION OF ORDINANCE 20-2005 AS IT  
RELATES TO LANDSCAPE MEDIANS**

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

**SECTION 1. PURPOSE.**

The purpose of this ordinance is to amend Ordinance 20-2005 adopted by the City Council of Elk Grove on May 11, 2005, to be effective on June 11, 2005. Ordinance 20-2005 shall be amended to make clear and to state that the Division of Parks shall be responsible only for landscaped traffic medians of the City located in the City owned and operated parks and recreation facilities.

**SECTION 2. FINDINGS.**

- a. Ordinance No. 20-2005 shall become effective on June 11, 2005, and therefore, it is urgent that the amendment to the Ordinance shall be effective immediately for the immediate preservation of the public peace, health or safety, and the City Council finds there is an urgent need that this Ordinance be effective immediately upon its enactment for the following reasons:
  - (1) The Elk Grove Community Services District has mailed to the City of Elk Grove a letter stating that the Elk Grove Community Services District is using Ordinance No. 20-2005, as a pretense for abandoning its responsibility for the maintenance of all City-owned landscaped traffic medians, trail corridors and buffer lands as it has done for the entire time the medians have been in existence, all the while keeping the public's money from the assessments collected for that purpose. Further, the Elk Grove Community Services District has asserted that, effective July 1, 2005, it will no longer provide landscaping and maintenance of City-owned medians, trail corridors and buffer lands.
  - (2) Should the Elk Grove Community Services District not maintain the landscaped medians, trail corridors and buffer lands and should the Elk Grove Community Services District keep the public's money from assessments collected for that purpose, there are no means to provide for their maintenance, and it is imperative that the landscaping in the city-owned medians, trail corridors and buffer lands not be permitted to be destroyed at great expense to property

owners within the boundaries of both the Elk Grove Community Services District and the City of Elk Grove.

- (3) As its name implies, the existing Landscape and Lighting Maintenance District is the appropriate source of funding for the landscaping of medians, trail corridors and buffer lands and have been the sole source of funding for nearly 20 years and the community has approved assessments and increases in assessments based on the representations by the Elk Grove Community Services District that it would maintain the landscaping in medians, trail corridors and buffer lands, without regard to ownership; other sources of funding are obligated for critical community needs
  - (4) If the Elk Grove Community Services District desires to abandon its responsibility to maintain the medians, trail corridors and buffer lands without regard to ownership then the Elk Grove Community Services District must relinquish the accompanying assessments collected for said purposes as well. Any proposal to the contrary violates the requirement that the property owners who pay the assessments must receive a benefit, i.e. the maintenance of the landscaped medians, trail corridors and buffer lands, without regard to ownership.
  - (5) If this amendment to Ordinance 20-2005 is not effective immediately upon adoption, and the Elk Grove Community Services District is allowed to persist in the present courses based upon a misunderstanding of the City's Park Ordinance, some landscape medians, trail corridors and buffer lands in the City will not be maintained, the years of assessment payers' dollars invested in the landscaping of the medians, trail corridors and buffer lands will be destroyed by the Elk Grove Community Services District failure to maintain the medians, trail corridors and buffer lands, the resulting un-maintained growth of weeds could create a fire hazard and increase the allergens in the City, and serve as a serious impediment to economic development and job creation, all to the detriment to the public peace, health and/or safety and the conduct of City business.
- b. Amendment of Section 2 of Ordinance 20-2005 is necessary for the immediate preservation of the public peace, health or safety, in order to properly clarify the intent and operation of Ordinance 20-2005 and to prevent the Elk Grove Community Service District from abandoning the residents and payers of assessments within the City by ceasing to maintain medians, trail corridors and buffer lands based on ownership

thereby destroying a valuable community asset and creating potential fire hazards and health hazards.

**SECTION 3. AMENDMENT.**

Section 2 of the Elk Grove Ordinance No. 20-2005, adopted May 11, 2005, relating to parks is amended in its entirety to read as follows:

**- 01 Department of Parks and Recreation.**

There is hereby created and established a Department of Parks and Recreation which shall consist of such personnel as may be authorized by the City Council and comprised of the following divisions:

A. **Division of Parks.** The Division of Parks shall be responsible for the operation and maintenance of all City park facilities and landscaped traffic medians of the City located in such parks of the City.

B. **Division of Recreation.** The Division of Recreation shall be responsible for providing and supervising all recreational activities of the City.

**SECTION 4: NO MANDATORY DUTY OF CARE.**

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

**SECTION 5: SEVERABILITY.**

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

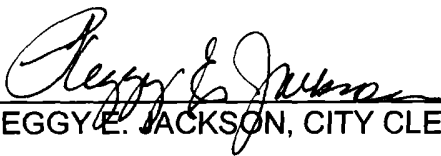
**SECTION 6: EFFECTIVE DATE – URGENCY ORDINANCE.**

This ordinance shall take effect immediately as an urgency ordinance. For the reasons and the findings found in Section 2 above, the City Council finds that the immediate passage of this ordinance is necessary for the immediate preservation of the public peace, health or safety of the City.

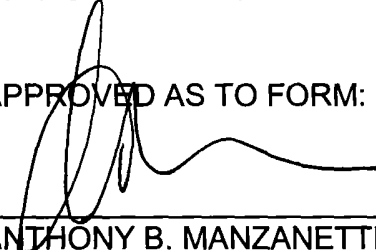
**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 8th day of June 2005.

  
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DANIEL BRIGGS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
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PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:

  
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ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**Effective Date: June 8, 2005**

**AYES: Scherman, Soares, Briggs, Cooper, Leary**  
**NOES: None**  
**ABSTAIN: None**  
**ABSENT: None**