

ORDINANCE NO. 48-2008

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING TITLE 8 OF THE ELK GROVE MUNICIPAL CODE AND ENACTING A
NEW TITLE 8 REGARDING ANIMALS**

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

Section 1: Purpose and Authority

Under California Constitution Article XI, Section 7, the City of Elk Grove may enact ordinances to preserve and protect the public safety, health, and welfare. To this end, the City Council of the City of Elk Grove has undertaken a comprehensive revision of Title 8 of the Municipal Code regarding animals.

Section 2: Repeal of Title 8

Title 8 of the Elk Grove Municipal Code is hereby repealed.

Section 3: Enactment of New Title 8

A new Title 8 is hereby enacted and added to the Elk Grove Municipal Code to read as follows:

TITLE 8

ANIMALS

Chapters:

- 8.01 General Provisions
- 8.02 Custody, Care, and Control of Animals
- 8.03 Animal Licensing
- 8.04 Rabies Control
- 8.05 Animal Impoundment, Disposition, and Adoption
- 8.06 Dangerous and Vicious Animals

Chapter 8.01

GENERAL PROVISIONS

Sections:

- 8.01.010 Purpose.
- 8.01.020 Definitions.
- 8.01.030 Compliance with zoning requirements.
- 8.01.040 Applicability of State laws.

8.01.050	Animal Services Officer – Position created.
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8.01.080	Entering on private property.
8.01.090	Warrants unnecessary.
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8.01.110	Obstructing officers unlawful.
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8.01.130	Liability of City.
8.01.140	Animal service fees.
8.01.150	Mutual aid authority.
8.01.160	Returning animals to known owners.
8.01.170	Removing animal from custody of Animal Services Officer or holding shelter without permission prohibited.
8.01.180	Violations

8.01.010 Purpose.

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

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

8.01.020 Definitions

For the purposes of Title 8, the following terms, phrases, words, and their derivations shall have the meaning given in this chapter, unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and “including” and “include” are not limiting. The word “shall” is always mandatory.

(A) “A” definitions:

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

(2) “Ambient temperature” means that temperature immediately surrounding the animal.

(3) “Animal” includes birds, cats, dogs, fishes, fowl, rabbits, reptiles, and nonhuman mammals and bovine and the like.

(4) “Animal Services Officer” means the Animal Services Officer or any

other person authorized to enforce the provisions of this title.

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

(6) "Apiary" is a place where bees are kept; especially: a collection of hives or colonies of bees kept for their honey. A commercial apiary would consist of three or more hives or colonies measuring twelve inches by twelve inches by fourteen inches (12"x12"x14") with the average hive containing approximately 25,000 bees.

(7) "At large" shall mean:

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

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

(B) "B" definitions:

(1) "Bees" are a monophyletic lineage within the superfamily Apoidea, presently classified by the unranked taxon name Anthophila.

(2) "Beekeeping" (or apiculture, from Latin *apis*, bee) is the maintenance of honey bee colonies, commonly in hives, by humans. A beekeeper (or apiarist) keeps bees in order to collect honey and beeswax, for the purpose of pollinating crops, or to produce bees for sale to other beekeepers. A location where bees are kept is called an apiary.

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

(C) "C" definitions:

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

(2) "Coop" means a covered enclosure for the shelter of fowl.

(D) “D” definitions:

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

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

(3) “Domestic bird” includes budgies, canaries, cardinals, cockatiels, cockatoos, finches, lories, lorikeets, lovebirds, macaws, parakeets, parrots, sparrows, toucans, and weavers.

(E) “E” definitions:

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

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

(F) “F” definitions:

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

(G) Reserved for future use.

(H) “H” definitions:

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

(2) “Horse” means an animal of the genus *Equus*, including horses, mules, donkeys, and burros.

(3) “Household pets” means domestic animals ordinarily permitted in a place of residence, kept for company and pleasure, such as dogs, cats, domestic birds, guinea pigs, white rats, rabbits, mice, and other similar animals generally considered by the public to be kept as pets, excluding fowl. For one-family residences, a combination of dogs or cats is not to exceed the maximum of four total, two rabbits maximum, domestic birds and other similar animals are permitted, where the total number of animals in one place of residence shall not exceed ten.

(4) "Hobby Hive(s)" means the recreational keeping of bees in beehives when the number of hives is fewer than three.

(I) Reserved for future use.

(J) Reserved for future use.

(K) Reserved for future use.

(L) "L" definitions:

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

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

(M) Reserved for future use.

(N) Reserved for future use.

(O) "O" definitions:

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

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

(P) "P" definitions:

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

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

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

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

(5) "Public nuisance" means any animal which either:

(a) Molests passersby or passing vehicles;

(b) Attacks other animals or humans;

(c) Trespasses on school or park grounds;

(d) Is repeatedly at large, not under the custody, control, or

possession of the owner, or not properly confined on the owner's property;

(e) Damages public property;

(f) Disrupts the peace by continuously and incessantly barking, howling, crying, yelping, baying, or making any other noise at any time during the day or night to the disturbance of any other person. Continuous and incessant is defined as frequent barking, howling, crying, yelping, baying, or any other noise of ten (10) minutes or more duration within a thirty (30) minute period, provided that at the time of the complaint no person or persons were trespassing or threatening to trespass upon the private property of the owner or the animal was not being teased or provoked in any manner;

(g) Is allowed to run at large while in the stage of heat;

(h) Is allowed to defecate or urinate on public property or on private property without the consent of the owner.

(Q) "Q" definitions:

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

(R) Reserved for future use.

(S) "S" definitions:

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

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

(T) Reserved for future use.

(U) Reserved for future use.

(V) "V" definitions:

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

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

(3) "Vicious animal" is any animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being, in a place where such person is conducting himself or herself peacefully and lawfully;

(a) An animal which has been trained to fight or which is owned

or harbored for this purpose;

(b) Any animal previously determined to be and currently listed as a dangerous animal which, after its owner or keeper has been notified of this determination, continues the behavior described in Sections 8.06.040 or 8.06.050, or is maintained in violation of Section 8.06.070(C), (1) through (6).

(W) "W" definitions:

(1) "Wild animal" shall mean any of the following:

(a) Any animal described in California Fish and Game Code Sections 2116 and 2118;

(b) Any animal described in any addition to Fish and Game Code Section 2118, by regulation of the Fish and Game Commission as provided in Section 2118 (j and k);

(c) The following members of the Class Reptilia:

(i) Order Ophidia (including racers, boas, water snakes, and pythons) over eight feet in length,

(ii) Order Loricata (including alligators, caymans, and crocodiles) over three feet in length,

(iii) Order Sauria (excepting iguanas) over three feet in length;

(d) The following members of the Class Aves (birds):

(i) Order Falconiformes (including hawks, eagles, and vultures),

(ii) Subdivision Ratitae (including ostriches, rheas, cassowaries, and emus);

(e) The following members of the Class Mammalia:

(i) Order Carnivora, expressly excepting the domestic dog (*Canis Familiaris*) and the domestic cat (*Felis Catus*), but including the family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars) and the family Canidae (such as wolves, dingos, coyotes, and jackals),

(ii) Order Marsupialia (such as kangaroos and opossums),

(iii) Order Chiroptera (bats),

(iv) Order Edentata (such as sloths, anteaters, and armadillos),

(v) Order Proboscidea (elephants),

(vi) Order Primata (including monkeys, chimpanzees, and gorillas),

(vii) Order Ungulata (including antelope, deer, and bison),

- (viii) Genus llama, Genus camelus;
- (f) Any nondomestic species when kept, maintained, or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings, or to the property of human beings;
- (g) Any hybrid animal which is genetically 20% or more part wild animal and 80% or less domestic animal and is capable of transmitting rabies, except livestock hybrids, and for which no rabies prophylaxis is recognized or authorized by the State.
- (h) A dangerous animal over which the owner has evidenced a failure to maintain control.

- (X) Reserved for future use.**
- (Y) Reserved for future use.**
- (Z) Reserved for future use.**

8.01.030 Compliance with zoning requirements.

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

8.01.040 Applicability of State laws.

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

8.01.050 Animal Services Officer – Position created.

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

8.01.060 Enforcement.

The Animal Services Officer and designees and the City Manager or designee are empowered, and it shall be their duty, to enforce the provisions of this title.

8.01.070 Authority.

Subject to the provisions of California Code of Civil Procedure, Section 1822.50 et seq., the Animal Services Officer or any person whose duty it is to enforce the

provisions of this title may at any reasonable time enter upon any premises for the purpose of inspection upon reasonable cause to believe there is a violation of any provision of this title or any law of the State relating to the care, treatment, control or prevention of cruelty to animals.

8.01.080 Entering on private property.

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

8.01.090 Warrants unnecessary.

Any Animal Services officer may enter upon private property without a warrant for the following purposes:

- (A) When he or she has the express permission of the owner or occupant of the premises;
- (B) When he or she has probable cause to believe that any rabid, injured, sick, abandoned, or uncared for animal is present;
- (C) When in pursuit of any animal:
 - (1) When such animal is unlicensed,
 - (2) Where such animal has been running at large upon any highway or road or other public property,
 - (3) When such animal has been trespassing on private property, and the owner or occupant of such property has requested that such animal be apprehended;
- (D) When he or she has probable cause to believe that there exists in any building or upon any premises or property any condition which may be in violation of this title.

8.01.100 Authority to arrest and to issue notices to appear.

Pursuant to the provisions of California Penal Code Sections 836.5 and 830.9, any Animal Services Officer or other person ordered by the City Council of the City of Elk Grove shall have the power and duty pursuant to this title to investigate complaints of violations of any provisions of this title, and may arrest a person without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has

committed an infraction or a misdemeanor in his or her presence, which is a violation of this title, and may issue a citation to such person to appear in court to answer to such charges.

8.01.110 Obstructing officers unlawful.

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

8.01.120 Use of equipment to impound and firearms authorized.

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

8.01.130 Liability of City.

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

8.01.140 Animal service fees.

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

8.01.150 Mutual aid authority.

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

8.01.160 Returning animals to known owners.

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

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

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

8.01.0180 Violation

Violations of this Title shall be enforced pursuant to the provisions of Chapter 1.04 of the Elk Grove Municipal Code.

Chapter 8.02

CUSTODY, CARE, AND CONTROL OF ANIMALS

Sections:

- 8.02.010 Animal care.
- 8.02.020 Animals not to be abused.
- 8.02.030 Keeping wild, exotic, and dangerous animals and reptiles.
- 8.02.040 Snakes.
- 8.02.050 Limitation on number of dogs and cats.
- 8.02.060 Running at large prohibited.
- 8.02.070 Impoundment of dogs running at large.
- 8.02.080 Control or containment.
- 8.02.090 Female dogs in heat.
- 8.02.100 Confinement of puppies.
- 8.02.110 Dogs and other animals in vehicles.
- 8.02.120 Dogs prohibited in food establishments.
- 8.02.130 Killing or butchering within residential areas prohibited.
- 8.02.140 Poisoning animals prohibited.
- 8.02.150 Staking animals.
- 8.02.160 Cage and pen requirements.
- 8.02.170 Sanitary enclosures.
- 8.02.180 Animals designated as public nuisances prohibited – Abatement procedures.
- 8.02.190 Sale of animals for experimentation.
- 8.02.200 Sales or gifts of animals.
- 8.02.210 Animals not to be given away as prizes.
- 8.02.220 Care of bees and beehives

8.02.010 Animal care.

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

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

and water. Violation of this provision constitutes a misdemeanor.

8.02.020 Animals not to be abused.

No person shall beat, cruelly ill-treat, torment, tease, overload, overwork, or otherwise abuse an animal, nor cause, instigate, or permit any dogfight, cockfight, or combat between animals or animals and humans, excluding police canines, within the City, nor shall any parent allow or permit his or her minor child to so treat any animal. Violation of this provision constitutes a misdemeanor.

8.02.030 Keeping wild, exotic, and dangerous animals and reptiles.

No person shall have, keep, or maintain any wild, exotic, dangerous, nondomestic animal or reptile within the City.

8.02.040 Snakes.

(A) It shall be unlawful for any person to own any snake within City limits, unless specifically allowed by the State Department of Fish and Game. Any such permit required by the Department of Fish and Game for the keeping of any snake must be obtained by the owner and shown to the Animal Services Officer upon demand.

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

8.02.050 Limitation on number of dogs and cats.

It is unlawful for any person to keep or harbor more than four (4) dogs or four (4) cats or a combination of both not to exceed a total for four (4), which are over the age of four months on or in any lot, premises, dwelling, building, structure, boat, or living accommodation.

8.02.060 Running at large prohibited.

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

spayed/neutered. The cost will be paid for by the owner of the animal. For purposes of this section, any dog or cat in or upon any vehicle shall be deemed to be on the premises of the operator thereof.

8.02.070 Impoundment of dogs running at large.

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

8.02.080 Control or containment.

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

8.02.090 Female dogs in heat.

It is unlawful for any person to permit any female dog which is owned, harbored, or controlled by him or her, to run at large or to run loose on or within the premises of such person, at any time during the period when the dog is in heat or breeding condition. "Running loose" is defined for the purposes of this section as being outside of a house, closed garage, or other closed building, whether tied or not.

8.02.100 Confinement of puppies.

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

8.02.110 Dogs and other animals in vehicles.

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

(B) No dog or any other animal shall be left completely enclosed in a parked vehicle without adequate ventilation, or in such a way as to subject the animal to temperatures sufficiently above ambient to affect the animal's health and welfare. The

Animal Services Officer may impound any animal found in violation of this section for the safety and protection of the animal and the public. In the event any animal is so confined, authority is given to the Animal Services Officer, or any other enforcing authority, to enter such vehicle by whatever reasonable force is necessary to release the animal without any liability upon the City or the enforcing authority for resulting damages. Violation of this provision constitutes a misdemeanor.

8.02.120 Dogs prohibited in food establishments.

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

8.02.130 Killing or butchering within residential areas prohibited.

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

8.02.140 Poisoning animals prohibited.

No person shall place, leave, or expose, in any place accessible to any animals, with the intent to kill or harm such animals, any poisonous substance or ingredient, or any edible or any other substance or ingredient which has in any manner been treated or prepared with any poisonous substance or ingredient. Violation of this provision constitutes a misdemeanor.

8.02.150 Staking animals.

No person shall tie, hitch, or stake a horse, cow, sheep, hog, or any other animal upon, in, or along any public highway in this City so that the animal can go upon or across the used or traveled part of the highway or any portion of the used or traveled part of the highway. The animal cannot provide for a public nuisance or be a threat or danger to public safety.

8.02.160 Cage and pen requirements.

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

8.02.170 Sanitary enclosures.

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

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

8.02.180 Animals designated as public nuisances prohibited – Abatement procedures.

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

(B) Public nuisance abatement.

(1) Whenever Animal Services or any of its Animal Services Officers has reasonable cause to believe that a public nuisance, as defined in this section, exists, the Animal Services Officer may conduct an investigation of such alleged nuisance.

(2) If, upon such investigation, the Animal Services Officer determines that a nuisance does not exist, no further action shall be taken. If the complaining party wishes to pursue the matter, he or she may seek a civil claim.

(3) a. If, upon such investigation, the Animal Services Officer determines that a nuisance exists, he or she shall issue an order to the owner of the offending animal directing that such nuisance be abated. In the event that the owner does not comply with the order, the Animal Services Officer may immediately issue a citation to the owner of the offending animal to appear in court.

b. In lieu of a citation by a witnessing peace officer, a complaint may be issued to the owner of person in custody of the animal causing the disturbance upon the request of any two (2) unrelated persons, living in different households, who are disturbed by the nuisance of the animal and in violation of Subsection a above. Said request shall be accompanied by declarations setting forth sufficient information to indicate that a violation of Section 8.01.020(f) has occurred in the presence of said persons.

c. Violation. Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits, or allows a public nuisance to exist thereon, after

reasonable notice in writing from an Animal Services Officer, District Attorney, City Attorney or prosecuting attorney to remove, discontinue or abate the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and the existence of such nuisance of each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is made the duty of the Animal Services Officer, or the City Attorney to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated.

8.02.190 Sale of animals for experimentation.

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

8.02.200 Sales or gifts of animals.

No person under the age of eighteen (18) shall place any dog, cat, puppy or kitten on public display for the purpose of sale, offer for sale, barter or give-away upon any street, sidewalk, parking lot, shopping center walkway or other public place, and no transfer of any such animal shall be made to any person under the age of eighteen (18).

8.02.210 Animals not to be given away as prizes.

No person shall give away any live animal, fish, reptile or bird as a prize for or as an inducement to enter any contest, game or competition, or as an inducement to enter a place of amusement, or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

8.02.220 Care of bees and beehives

Any person who keeps beehives on their property must comply with zoning requirements set forth in the Elk Grove Municipal code. All properties on which beehives are kept must provide for adequate water sources on the property.

Chapter 8.03

ANIMAL LICENSING

Sections:

- 8.03.010 License required – Fees.
- 8.03.020 Application for license.
- 8.03.030 Tagging a dog not described in application.

- 8.03.040 Collar and tag.
- 8.03.050 Duplicate tags.
- 8.03.060 Exemption.
- 8.03.070 Violation – Penalty.

8.03.010 License required – Fees.

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

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

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

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

(E) Exemptions:

(1) Government. Dogs owned and used by the City, municipal corporations, or other public agencies shall be licensed without fee.

(2) Senior citizens. One cat or dog kept in a household where the owner of the cat or dog is over the age of sixty-five (65) shall be licensed without fee.

8.03.020 Application for license.

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

8.03.030 Tagging a dog not described in application.

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

8.03.040 Collar and tag.

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

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

8.03.050 Duplicate tags.

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

8.03.060 Exemption.

Any dog used by State, County, City, or city and county law enforcement agencies shall not be subject to the provisions of Sections 8.03.010 through 8.03.050, or any other section not contained in this chapter, if any such dog is being used in the performance of any law enforcement activity.

8.03.070 Violation – Penalty.

Violation of any provision of Sections 8.03.010 through 8.03.040, inclusive, shall constitute an infraction.

Chapter 8.04

RABIES CONTROL

Sections:

- 8.04.010 Restrictions on keeping of animals capable of transmitting rabies.
- 8.04.020 Rabies reports.
- 8.04.030 Vaccination required.
- 8.04.040 Vaccination – Exemption.
- 8.04.050 Certificate of vaccination.
- 8.04.060 Quarantine and impoundment.
- 8.04.070 Animal bite – Victim report.
- 8.04.080 Animal bite – Medical report.

- 8.04.090 Notification of quarantine restrictions.
- 8.04.100 Quarantined animal at large.
- 8.04.110 Killing of animals suspected of having rabies.
- 8.04.120 Quarantine of guide dog serving blind master.
- 8.04.130 Quarantine of dog used by law enforcement agency.

8.04.010 Restrictions on keeping of animals capable of transmitting rabies.

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

8.04.020 Rabies reports.

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

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

8.04.030 Vaccination required.

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

(B) Every cat/dog shall have a medically current vaccination with an anti-rabies vaccine approved by the California Department of Public Health. A veterinarian shall administer the vaccination or as provided through County-recognized clinics, and a certificate of vaccination shall be issued to the owner. The certificate of rabies vaccination which accompanies the license application shall be valid if in compliance with the following immunization schedule:

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

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

be at least once every three (3) years.

8.04.040 Vaccination – Exemption.

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

8.04.050 Certificate of vaccination.

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

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

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

8.04.060 Quarantine and impoundment.

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

8.04.070 Animal bite – Victim report.

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

8.04.080 Animal bite – Medical report.

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

8.04.090 Notification of quarantine restrictions.

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

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

8.04.100 Quarantined animal at large.

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

8.04.110 Killing of animals suspected of having rabies.

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

8.04.120 Quarantine of guide dog serving blind master.

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

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

8.04.130 Quarantine of dog used by law enforcement agency.

Notwithstanding any other provision of this chapter, a dog used by any State, County, City or city and county law enforcement agency shall not be quarantined after biting any person if such bite occurred while the dog was being used for any law enforcement purpose. The law enforcement agency shall make the dog available for

examination at any reasonable time. The law enforcement agency shall notify Animal Services within its jurisdiction if the dog exhibits any abnormal behavior.

Chapter 8.05

ANIMAL IMPOUNDMENT, DISPOSITION, AND ADOPTION

Sections:

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

8.05.010 Impounding of animals.

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

8.05.020 Impoundment of dogs.

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

8.05.030 Impoundment of cats.

It is made the duty of Animal Services to impound all cats delivered to the animal shelter facility.

8.05.040 Redemption of impounded animals.

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

(B) In addition to any other fees or fines imposed by this title or State law, the owner of a nonspayed or unneutered dog or cat shall be subject to an "unaltered impounded animal fee." The unaltered impounded animal fee shall be set by resolution of the City Council. For the purpose of this section, "impounded" shall mean any animal that is impounded in violation of Section 8.05.020 or 8.05.030.

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

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

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

(3) The City may extend the date by which spaying or neutering is to be completed at its discretion for good cause shown, including, but not limited to, a written determination by a veterinarian licensed to practice veterinary medicine in this state that a dog or cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered. Any extension shall be in writing and shall be temporary, until the

dog or cat is healthy enough to be spayed or neutered as certified by a veterinarian licensed to practice veterinary medicine in this state. The dog or cat shall be spayed or neutered within fourteen (14) business days of that certification. The owner shall obtain written proof of spaying or neutering from the veterinarian performing the operation. If the owner presents proof of spaying or neutering to the city within thirty (30) business days of the expiration of the temporary extension, the owner shall receive a refund of the unaltered impounded animal fee pursuant to subsection (B)(1) of this section.

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

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

8.05.050 Duration of impoundment.

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

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

(C) Livestock. Any impounded livestock, such as bovine animals, horses, mules, or burros, shall be kept in the animal shelter for at least five (5) days, unless it is redeemed within that period. If the animal is a bovine animal and is not redeemed, it shall be turned over to the State Bureau of Livestock Identification for disposition by that office. Any other livestock shall be disposed of in accordance with the provisions of the Food and Agriculture Code of the State, Sections 17063 through 17095.

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

8.05.060 Disposition authorized.

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

8.05.070 Abandonment.

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

8.05.080 Voluntary surrender – Fees.

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

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

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

8.05.090 Adoption.

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

8.05.100 Sterilization

(A) No unclaimed dog or cat shall be released for adoption without being sterilized or without a written agreement from the adopter guaranteeing that such animal

will be sterilized and a sterilization deposit made. The sterilization fee deposit shall be established from time to time by resolution of the City Council.

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

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

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

8.05.110 Voluntary owner releases of dead animal to Animal Services Officers – Fee.

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

8.05.120 Disposal of carcasses by owners.

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

8.05.130 Diseased or injured animals.

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

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

(C) The Animal Services Officer or any police or sheriff's department may, with the approval of his or her immediate supervisor, humanely destroy within the corporate limits without transporting to shelter or veterinarian any animal too severely injured to move or where a veterinarian is not available or it would be more humane to

dispose of the animal.

CHAPTER 8.06

DANGEROUS AND VICIOUS ANIMALS

Sections:

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

8.06.010 Purpose.

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

8.06.020 Definitions.

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

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

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

property upon invitation, expressed or implied.

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

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

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

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

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

8.06.030 Investigation, confinement, seizures and impoundment.

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

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

(C) The animal's owner shall be charged for all costs incurred or fees applicable with respect to such impoundment unless a finding is made that the animal is

not potentially dangerous or vicious, or not subject to destruction. An animal held under the provisions of this section shall not be released until the owner pays all charges as specified in Sections 8.05.010 through 8.05.040. If the owner refuses to pay such charges, the animal shall be treated as unredeemed by the owner, and disposed of pursuant to 8.05.070. Disposal of the animal does not release the owner from his or her responsibility to pay the keeping charges.

8.06.040 Dangerous animals.

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

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

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

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

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

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

8.06.050 Vicious animals.

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

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

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

(C) Any animal previously determined to be and currently listed as a

dangerous animal which, after its owner or keeper has been notified of this determination, continues the behavior described in Sections 8.06.040 or 8.06.050, or is maintained in violation of Section 8.06.110.

8.06.060 Destruction of vicious animal.

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

8.06.070 Determination of potentially dangerous or vicious animal – Hearing.

(A) An animal which exhibits any behavior described in Sections 8.06.040 to 8.06.050, inclusive, may be determined to be a dangerous or vicious animal. The status shall be established after a hearing as hereinafter provided. Proceedings may be instituted by:

- (1) Observation by the Animal Services Officer;
- (2) A complaint sworn by a person or persons who observed the behavior complained of.

(B) Hearings for classification as “dangerous” or “vicious” shall be conducted as follows:

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

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

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

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

(5) The hearing shall be conducted before a hearing officer. The appointment of the hearing officer shall be by the City Attorney. Any person designated to serve as a hearing officer is subject to disqualification for bias,

prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. The City Attorney shall promulgate rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the City of Elk Grove as hearing officers and for the disqualification of hearing officers.

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

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

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

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

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

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

(1) The owner of such animal shall immediately keep such animal in a run which is totally enclosed or held securely on a chain, or kept under other adequate control as approved by the Animal Services Officer. If any of these means of restraint is impossible or impracticable, such animal shall be impounded in the animal shelter facility at the owner's expense, until such time as the owner of such animal shall provide for the restraint of the animal in a run which is totally enclosed and approved by the Animal Services Officer.

(2) A dangerous animal shall be securely confined in an enclosure as described in Section 8.06.020(c)(1)(2) or in the dwelling while on the owner's or

custodian's property. The owner shall conspicuously display signs with a symbol warning of the presence of a dangerous animal.

(3) While off the owner's premises, a dangerous animal shall at all times be restrained by a substantial chain or leash not exceeding six (6) feet in length, held by and under the control of a responsible adult.

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

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

(6) Inspections. The Animal Services Supervisor and/or designee is authorized to make whatever inspections he or she deems necessary to ensure compliance with these provisions.

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

8.06.080 Time limit to meet requirements.

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

8.06.090 Dogs to be kept under control at all times.

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

8.06.100 Impoundment authorized.

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

8.06.110 Compliance required – Violation.

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

8.06.120 Exception.

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

8.06.130 Restriction on future ownership.

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

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

8.06.140 Removal of designation.

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

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

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

condition and new location of the animal in writing within two working days.

8.06.150 Permit for dangerous animal required

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

- (A) All aspects of Section 8.06.080 (1) through (6) have been met;
- (B) The animal will not create any detriment or danger to the peace, health, or safety of the people in the vicinity of the location the animal will be kept;
- (C) Possession and maintenance of the animal at the location has not resulted in and is not likely to result in an animal being subjected to neglect, suffering, cruelty, or abuse;
- (D) The location where the animal is possessed or maintained is kept clean and sanitary, and the animal is provided with proper and adequate food, water, ventilation, housing, and care at all times;
- (E) Neither the applicant, owners, nor the possessor of the animal has had a City dangerous animal permit or any other license required under this title revoked, or been convicted of a violation of this title or any law regulating animals within three years;
- (F) The animal shall not be possessed nor maintained at any other location than that expressed on the permit

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.

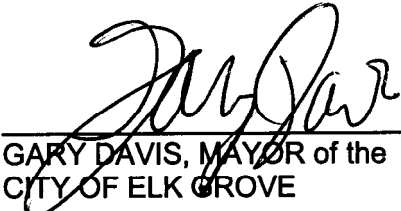
Section 5: Severability.

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 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: 48-2008
INTRODUCED: September 10, 2008
ADOPTED: October 8, 2008
EFFECTIVE: November 7, 2008



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: October 10, 2008

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 48-2008**

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

I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on September 10, 2008 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on October 8, 2008 by the following vote:

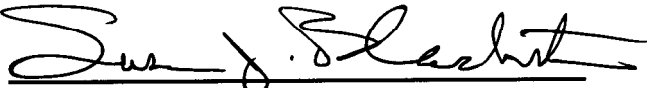
AYES : **COUNCILMEMBERS:** *Davis, Hume, Leary, Cooper*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *Scherman*

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



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