

**ORDINANCE NO. 28-2013**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AMENDING SECTIONS OF ELK GROVE MUNICIPAL CODE CHAPTER 1.11  
RELATED TO APPEALS, CHAPTER 6.18 RELATED TO ABANDONED VEHICLES,  
CHAPTER 16.18 RELATING TO NUISANCES, AND CHAPTER 16.20 RELATED TO  
THE ELK GROVE HOUSING CODE**

**WHEREAS**, the Municipal Code was established to support safe, livable, and attractive communities and is enforced through issuance of notices to inform property owners of violations prior to enforcement actions being taken; and

**WHEREAS**, the Municipal Code also sets out regulations regarding what notices are used and how appeals of violations are handled; and

**WHEREAS**, the Municipal Code undergoes updates at times in an effort to best clarify and inform citizens of unsafe or unhealthy conditions and ensure due process of law; and

**WHEREAS**, this amendment is necessary to ensure the Elk Grove Municipal Code properly reflects the way in which notices are used and that appeal periods are reasonable and effective.

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

Section 1: Amend Elk Grove Municipal Code Section 1.11.010 titled *Application*

Elk Grove Municipal Code Section 1.11.010 is hereby amended to read as follows:

**1.11.010 Application.**

This chapter is intended as the sole means of quasi-judicial administrative appeal from the issuance of any administrative citation pursuant to EGMC Chapter 1.12 or any notice and order pursuant to EGMC Chapter 16.18, and from any final decision or ruling resulting from a department-level review or appeal, including decisions of the City Manager and his or her designee(s), except as otherwise expressly provided by law or the Elk Grove Municipal Code. This chapter shall not be a means of appeal from the decision of any board or commission of the City, including but not limited to the Planning Commission and the Building Board of Appeals, where State law requires the appeal be heard by the City Council or another agency.

Section 2: Amend Elk Grove Municipal Code Section 1.11.030(A) titled *Filing a request for appeal*

Elk Grove Municipal Code Section 1.11.030 (A) is hereby amended to read as follows:

1.11.030 Filing a request for appeal.

A. The appellant shall file with the City Clerk a request for appeal within the time limits provided by law or by ordinance for the filing of such an appeal or, if none are otherwise specified, within fifteen (15) days after the City's service of the final departmental decision being appealed. The appellant's request for appeal under this chapter shall be called a request for appeal.

Section 3: Amend Elk Grove Municipal Code Section 6.18.230 titled *Appeals*

Elk Grove Municipal Code Section 6.18.230 is hereby amended to read as follows:

6.18.230 Appeals.

Either within fifteen (15) days after the date of the notice of intention prescribed by EGMC Section 6.18.200 is mailed, or at the time of signing a release pursuant to EGMC Section 6.18.220(A) or (B)(6), the property owner and/or the vehicle owner may appeal the determination that a vehicle or part be abated. Such appeals shall be heard and determined as set forth in EGMC Chapter 1.11.

If the property owner submits a sworn written statement pursuant to EGMC Section 6.18.210 denying responsibility for the presence of the vehicle or part on his or her land within the fifteen (15) day period prescribed by this section, such statement shall be construed a request for hearing which does not require the presence of the property owner. If no request for hearing is received by the Director within the time prescribed by this section, the Director shall cause the vehicle or part to be removed and disposed of in the manner authorized by this chapter.

Section 4: Amend Elk Grove Municipal Code Section 16.18.200(A) titled *General Definitions*

Elk Grove Municipal Code Section 16.18.200(A) is hereby amended to read as follows:

16.18.200 General definitions.

The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

A. "A" Definitions.

"Abandoned," applied to any building, dwelling, or other structure that is unoccupied and is in such a state of neglect that a reasonable person would believe that the building has not been used for its intended, lawful purpose and/or has not been lawfully occupied for an extended period of time.

Section 5: Amend Elk Grove Municipal Code Section 16.18.1100 titled *Abandoned and/or vacant buildings or structures*

Elk Grove Municipal Code Section 16.18.1100 is hereby amended to read as follows:

16.18.1100 Abandoned and/or vacant buildings or structures.

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to abandon or vacate, or cause to be abandoned or vacated, any building or structure, so that it becomes accessible to unauthorized persons including, but not limited to, juveniles and vagrants, for unlawful or hazardous use, or to allow the same to become infested with vermin or rodents, or to become a menace to the health or safety of the public.

The following requirements must be completed to secure an abandoned and/or vacant building or structure:

A. **Duty to Maintain Property.** It is unlawful for an owner to maintain property or to permit property to be maintained in such a manner that any one (1) or more of the conditions described in the following subsections are found to exist:

1. Any abandoned or vacant structure that is open and accessible and/or not secured by boarding in compliance with subsection (B) of this section;
2. Any vacant structure whose interior contains any waste, rubbish, debris or graffiti;
3. Any vacant structure whose premises contain any waste, rubbish, debris, excessive vegetation or graffiti;
4. Any vacant structure whose doors, windows or other openings are secured by boarding in compliance with subsection (B) of this section or by any other method permitted by subsection (B) of this section at any time at which there is no current and valid boarding permit as required by subsection (C) of this section;
5. Any vacant structure that promotes a criminal activity on the property, to include but not limited to use and sale of controlled substances, prostitution and criminal gang activity.

B. **Standards of Securing.** Except as provided in subsection (B)(12) of this section, the owner shall secure a vacant structure according to all of the following specifications and requirements:

1. Remove all waste, rubbish or debris from the interior of the structure;
2. Remove all waste, rubbish, debris or excessive vegetation from the premises surrounding the vacant structure;

3. Barricade all unsecured doorways, windows, or exterior openings with minimum one-half (0.5") inch thickness exterior grade plywood, which shall extend to the molding stops or studs;
4. Mount at least two (2) wood stocks of minimum two by four (2" x 4") inch thickness to the reverse face of the plywood with minimum three-eighths (0.375") inch carriage bolts mated with nuts and two (2) flat washers;
5. Extend the stock a minimum of eight (8") inches on each side of the interior wall;
6. Cause all hardware to be galvanized or cadmium plated;
7. Paint all exterior barricade material the predominant color of the structure;
8. Terminate all utility service to the dwelling or building by removal of the meters and *termination* of electric power at the pole. Compliance with this subsection may be waived in writing by the Building Official as to the electric utility service if electricity is needed to power exterior security lighting, an alarm system, or equipment to be used in connection with rehabilitation of the dwelling or building for which there is an active and current building permit;
9. If applicable, cap the sewer in a manner approved by the Building Official to prevent the accumulation of methane gas in the dwelling or building;
10. Post the Premises. One (1) or more metal signs must be posted at or near each entrance to the structure and on fences or walls as appropriate. The signs must remain posted until the structure is either lawfully occupied or demolished. Signs must contain the following information:

DO NOT ENTER. It is illegal to enter or occupy this building or premises or to remove or deface this notice. Trespassers will be prosecuted. (Municipal Code, California Penal Code).
11. The Building Official or Code Enforcement Manager may require the owner to erect a fence that meets the specifications of the Building Inspection Department on the property where the vacant structure is located. Any fence erected in accordance with this section shall be maintained in a safe condition without tears, breaks, rust, or dangerous protuberances;
12. In lieu of requiring the owner to board a vacant structure as set forth in subsections (B)(1) through (11) of this section, the Building Official may allow the owner to board the vacant structure in a manner that the Building Official determines adequately prevents unauthorized entry or vandalism. In any event, an owner shall post the premises as set forth in this section.

Section 6: Amend Elk Grove Municipal Code Section 16.18.1102 titled *Attractive Nuisances*

Elk Grove Municipal Code Section 16.18.1102 is hereby amended to read as follows:

16.18.1102 Attractive nuisances.

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain on any such premises or property any condition that constitutes an attractive nuisance including, but not limited to, the following: A) abandoned and or vacant building and/or structure, damaged or broken equipment, vehicles, machinery or household items, B) unprotected, hazardous, filled pools without required fencing or unfilled pools or ponds; and C) unfenced or otherwise unprotected wells or excavations.

Section 7: Amend Elk Grove Municipal Code Section 16.18.1130 titled *Trees and shrubs*

Elk Grove Municipal Code Section 16.18.1130 is hereby amended to read as follows:

16.18.1130 Trees and shrubs.

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property in such a manner that has resulted in: A) trees and shrubs with dead or fallen limbs or branches that present a safety hazard or restrict, impede or obstruct the use of a public right-of-way, easement, sidewalk or roadway; or B) branches from any tree or shrub not trimmed to the height of ten (10' 0") feet over the public sidewalk and to the height of thirteen (13' 0") feet over the public street, easement, sidewalk or roadway where such growth restricts, impedes or obstructs pedestrian or vehicular use of said public right-of-way, easement, sidewalk or roadway; or C) trees, tree limbs and branches that present a safety hazard or restrict, impede or obstruct street signs, traffic signal lights or street lamps from illuminating the public right-of-way, easement, sidewalk or roadway.

Section 8: Amend Elk Grove Municipal Code Section 16.18.1131 titled *Vehicle parking*

Elk Grove Municipal Code Section 16.18.1131 is hereby amended to read as follows:

16.18.1131 Vehicle parking.

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to permit on such premises or property any operable or inoperable vehicle, vessel, recreational vehicle, motor home, trailer, camper, camper shell or boat to be parked or stored outside of a garage or carport on an unimproved surface.

Section 9: Amend Elk Grove Municipal Code Section 16.18.1203 titled *Form of notice and order*

Elk Grove Municipal Code Section 16.18.1203 is hereby amended to read as follows:

16.18.1203 Form of notice and order.

The heading of the notice shall be "notice and order." The Notice and Order may be in any written form provided it contains the content set forth in EGMC Section 16.18.1202.

Section 10: Amend Elk Grove Municipal Code Section 16.18.1205 titled *Method of service*

Elk Grove Municipal Code Section 16.18.1205 is hereby amended to read as follows:

16.18.1205 Method of service.

Service of a copy of the notice and order shall be deemed complete if made upon such persons that are entitled thereto either personally or by certified mail, postage prepaid, return receipt requested, at their address as it appears on the last equalized assessment roll of the County. Additionally, the notice shall be served on the responsible party by first class certified mail, return receipt requested, sent to the address contained in the records of the City of Elk Grove Finance Department for utility billings, if such address is different than that listed on the last equalized County assessment roll. If an address of any such person does not appear on the last equalized assessment roll or is not otherwise known to the issuing inspector or enforcement officer, then service shall be deemed complete when a copy of the notice and order shall be addressed to such person(s) and mailed to the address of the subject premises. The failure of any such person to receive a copy of the notice and order shall not affect the validity of any proceedings or actions taken under this chapter. Service by certified mail in the manner herein provided shall be affixed to the copy of the notice and order and retained by the inspector or enforcement officer.

Section 11: Amend Elk Grove Municipal Code Section 16.18.1300 titled *Appeals procedures*

Elk Grove Municipal Code Section 16.18.1300 is hereby amended to read as follows:

16.18.1300 Appeals procedures.

Notwithstanding any other provision of this chapter, any person served with a notice and order issued pursuant to EGMC Section 16.18.1200 may appeal the notice and order pursuant to EGMC Chapter 1.11; provided, however, that any such appeal shall be filed no later than fifteen (15) days after service of the notice and order.

Section 12: Amend Elk Grove Municipal Code Section 16.18.1512 titled *Time in which to appeal abatement cost report.*

Elk Grove Municipal Code Section 16.18.1512 is hereby amended to read as follows:

16.18.1512 Time in which to file appeal of abatement cost report.

A complete and proper appeal of abatement cost report as described in EGMC Section 16.18.1511 shall be filed with the City Clerk within fifteen (15) days from the date service of the abatement cost report is completed pursuant to EGMC Section 16.18.1509. Any appeal not timely filed shall be rejected.

Section 13: Amend Elk Grove Municipal Code Section 16.18.1604 titled *Administrative Appeals Officer to conduct appeal hearing.*

Elk Grove Municipal Code Section 16.18.1604 is hereby amended to read as follows:

16.18.1604 Administrative Appeals Officer to conduct appeal hearing.

The Administrative Appeals Officer established in EGMC Section 1.11.070 shall conduct an administrative appeal hearing pursuant to the appeal procedures set forth in this chapter. The Administrative Appeals Officer shall review all evidence, documents, and written testimony submitted at or before the scheduled appeal hearing and shall hear all oral testimony offered at said hearing.

Section 14: Amend Elk Grove Municipal Code Section 16.20.500 titled *General*

Elk Grove Municipal Code Section 16.20.500 is hereby amended to read as follows:

16.20.500 General.

Notwithstanding any other provision of this chapter, any person served with a notice and order issued pursuant to EGMC Section 16.20.400 may appeal the notice and order pursuant to EGMC Chapter 1.11.

Section 15: Repeal Elk Grove Municipal Code Chapter 16.18, Article VI. Titled *Notice of Violation.*

Elk Grove Municipal Code Chapter 16.18, Article VI (EGMC Sections 16.18.600 through 16.18.680) Titled *Notice of Violation* is repealed in its entirety.

Section 16: 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 17: 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 18: Savings Clause**

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

**Section 19: Effective Date and Publication**

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

**ORDINANCE NO. 28-2013**

INTRODUCED: December 11, 2013

ADOPTED: January 8, 2014

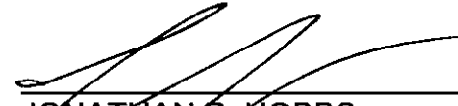
EFFECTIVE: February 7, 2014

  
\_\_\_\_\_  
GARY DAVIS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JONATHAN P. HOBBS,  
CITY ATTORNEY

Date signed: January 13, 2014



**CERTIFICATION  
ELK GROVE CITY COUNCIL ORDINANCE NO. 28-2013**

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

*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on December 11, 2013 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 8, 2014 by the following vote:*

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

**NOES:**       **COUNCILMEMBERS:**       *None*

**ABSTAIN:**   **COUNCILMEMBERS:**       *None*

**ABSENT:**    **COUNCILMEMBERS:**       *None*

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

  
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**Jason Lindgren, City Clerk  
City of Elk Grove, California**