

ORDINANCE NO. 718

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY ADDING CHAPTER 8.48 OF THE GRASS VALLEY MUNICIPAL CODE REGARDING RESPONSIBLE PROPERTY OWNERS

WHEREAS, the City Council of the City of Grass Valley (“City Council”) has determined that a growing number of persons who own or control real property in the City of Grass Valley (“City”) have allowed their property to be used for illegal purposes and such use of the property has impacts on the living conditions in the City’s neighborhoods and has raised justifiable concerns about public health and safety; and

WHEREAS, the City Council has determined that such properties interfere with the comfort, health, solitude, and quality of life of the individuals residing in the neighborhood and lower the value of surrounding properties; and

WHEREAS, the City Council has determined that existing laws have not sufficiently encouraged such persons to take reasonable steps to abate the safety violations the residents on their property are creating; and

WHEREAS, the City Council has determined that penalties will give such Property Owners and Tenants additional incentives to ameliorate the problems that the Tenants are creating and that some Property Owners are unaware of the nuisances on their Property unless their Property is subject to such abatement procedures; and

WHEREAS, chronic nuisance properties create a negative financial impact upon City services by numerous calls for service from various City departments; and

WHEREAS, this Ordinance will establish a comprehensive notification and enforcement process designed to collaboratively work with Property Owners and Tenants to address chronic crime and eliminate safety violations which pose a public nuisance.

NOW, THEREFORE, the City Council of the City of Grass Valley does hereby ordain as follows:

SECTION 1: Chapter 8.48 “Responsible Property Owner” is hereby added to Title 8 “Health and Safety” of the Grass Valley Municipal Code, and shall read as follows:

Chapter 8.48

RESPONSIBLE PROPERTY OWNER

Sections:

- 8.48.010 Purpose.**
- 8.48.020 Definitions.**
- 8.48.030 Scope of Application.**
- 8.48.040 Dual Responsibility.**
- 8.48.050 Authority.**
- 8.48.060 Private Right of Action.**
- 8.48.070 Safety Violations**
- 8.48.080 Safety Violations Prohibited.**
- 8.48.090 Notice of Safety Violation.**
- 8.48.100 Notice of Administrative Citation.**
- 8.48.110 Right to a Hearing**
- 8.48.120 Safety Violation Enforcement and Fines.**
- 8.48.130 Property Owner Notification.**

8.48.010. Purpose.

The purpose of this Chapter is to provide administrative and civil remedies against Property Owners who permit, allow, or fail to prevent ongoing behaviors and activities to occur on their properties that compromise public health and safety. It is not the purpose of this Chapter to subject Property Owners to any legal liability resulting from a Tenant's actions occurring away from the Owner's property.

8.48.020 Definitions.

The following words and phrases, when used in this Chapter, shall be construed as defined in this Section, unless it is apparent from the context that they have a different meaning:

- A. "Administrative expenses" shall include, but not be limited to:
 - 1. The costs associated with any hearings before a Hearing Officer.
 - 2. City's personnel costs, direct and indirect, incurred in enforcing this Chapter and in preparing for, participating in, or conducting any hearings subject to this Chapter, including but not limited to attorney's fees.
 - 3. The cost incurred by the City in documenting the Safety Violations, including but not limited to, the actual expense and costs of the City responding to the safety violation(s); investigating and enforcing statutory crimes related to the safety violation, including, but not limited to, court appearances; conducting inspections; attending hearings; and preparing notices, administrative citations, and orders.

- B. "Chief of Police" shall mean the Chief of Police or his/her designee.

- C. “City” means the City of Grass Valley.
- D. “Drug related nuisance” means any activity related to the possession, sale, use, or manufacturing of an illegal drug or narcotic that creates an unreasonable interference with the comfortable enjoyment of life, property, or the safety and welfare of the residents of the property, the neighborhood, or the public. These activities include, but are not limited to, any activity commonly associated with illegal drug use and dealing, such as noise, steady foot and vehicle traffic day and night to a particular property, possession of weapons, drug loitering (as defined in California Health and Safety Code Section 11532), possession of stolen property, identity theft, possession of property with serial numbers removed, evidence of forgery or fraud, or other drug related activities.
- E. “Enforcement Officer” means any person authorized by the Chief of Police pursuant to this ordinance to enforce violations of this Chapter.
- F. “Gang related crime” means any crime motivated by gang membership in which the perpetrator, victim, or intended victim is a known member of a gang.
- G. “Hearing Officer” shall mean any person appointed pursuant to Chapter 1.14 of the Grass Valley Municipal Code to preside over hearings, including those hearings required by to this Chapter.
- H. “Notice of Safety Violation” shall mean the notice provided to a Property Owner and/or Tenant indicating that a Safety Violation has occurred on the Property, and that the Property Owner and Tenant may be subject to fines for any additional Safety Violations.
- I. “Owner” and “Property Owner” have the same meaning and may be used interchangeably and shall mean the owner or owners of record of the subject real property as shown on the latest equalized tax assessment roll of Nevada County or as otherwise actually known to the Chief of Police.
- J. “Person” means individual(s), corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.
- K. “Real Property” or “Property” have the same meaning and may be used interchangeably and shall mean the lot or parcel of land for which the Owner has legal ownership or exercises custody or control thereof.
- L. “Safety Violation” means those activities set forth in Section 8.48.070
- M. “Tenant” shall mean that person(s), visitor(s), or transient(s) utilizing, leasing, residing at, or occupying the Real Property in question regardless of whether a

lease or contract exists between the parties; such occupancy may last for any limited period of time.

- N. “Verifiable Safety Violation” means:
1. A safety violation observed by a peace officer, as peace officer is defined in the California Penal Code; or
 2. A call for law enforcement service to the Grass Valley Police Department by a known person who is identifiable, and provides information to support the existence of a safety violation; or
 3. A call for service to the Grass Valley Police Department by an unknown person if the event is substantiated by an identifiable witness or peace officer, as defined by the California Penal Code.

8.48.030 Scope of Application.

A. The provisions of this Chapter shall apply to all Real Property whether owner occupied or a rental Property, whether residential, commercial, industrial, improved, or unimproved, throughout the City wherein any of the Safety Violations are found to exist.

B. A criminal conviction is not required for establishing the occurrence of a Safety Violation pursuant to this Chapter.

C. The remedies set forth in this Chapter are cumulative and additional to any and all other legal remedies available whether set forth elsewhere in the Grass Valley Municipal Code, or any applicable, state or federal laws, rules or regulations.

8.48.040. Dual Responsibility.

A. Every Person owning, possessing, or having charge or control of Real Property within the City is required to manage that Property and control the environment thereon in a manner so as not to violate the provisions of this Chapter. The Owner of Real Property shall be liable for Safety Violations as set forth in detail herein, regardless of any contract or agreement with any third party regarding the Property.

B. Every Tenant, Occupant, lessee, or holder of any possessory interest in Real Property shall:

1. Comply with all federal, state, and local laws applicable to the property.
2. Supervise or cause to be supervised anyone utilizing, residing at, or occupying the Property, with or without consent of the Owner, consistent with this Chapter.
3. Maintain the Property in a manner so as not to violate the provisions of this Chapter.

8.48.050. Authority.

The Chief of Police shall be responsible for administering and enforcing the provisions of this Chapter. The Chief of Police shall have the authority to designate employees as Enforcement Officers in conformance with this Chapter to assist with enforcement responsibilities of this Chapter, including, but not limited to, the issuance of administrative citations.

8.48.060. Private Right of Action.

Notwithstanding any other provision in this Chapter to the contrary, if a Tenant's conduct or action gives rise to any citation and order under Section 8.48.070 below, a Property Owner shall have the right, in addition to any other remedies that the Property Owner may have under the applicable lease, rental agreement, or the California code of Civil Procedure, to use the citation and order as evidence of a nuisance for purposes of any eviction proceeding.

8.48.070. Safety Violations

A. Safety Violation shall mean any of the following activities or behaviors that occur on a Property, or have found to originate from the Property:

1. The illegal sale of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480;
2. The illegal use of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480;
3. The frequent gathering, or coming and going, of people on the property who have an intent to purchase or use controlled substances;
4. The occurrence of prostitution or the unlawful activities of a criminal street gang, as defined in Penal Code Section 186.22;
5. The repeated making or continuing, or causing to be made, of any noise in violation of standards set forth in Chapter 8.28, which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area;
6. The firing of gunshots or brandishing of weapons by a resident of the property, or by a guest of a resident;
7. The occurrence of malicious mischief including vandalism or actions that damage property or cause or attempt to cause personal injury;
8. Arrests or detentions for drunkenness linked to the Property or for providing alcoholic beverages to, or permitting consumption of, alcoholic beverages by any person under twenty-one (21) years of age on the Property;
9. Harassment of other persons wherein such harassment involves repeated threats of physical harm to others or actions which may cause physical harm to others.

10. The occurrence of any other criminal activity not specified in this Section which threatens the life, health, safety or welfare of the residents of the property, the neighborhood, or the public.

B. A safety violation shall be deemed to have originated from a property when it occurs at the Property, or the safety violation is verifiable and has occurred within one hundred feet of the Property.

8.48.080. Safety Violations Prohibited.

A. It is hereby declared a violation of this Chapter for a Property Owner with actual or constructive knowledge, whether through the Owner or Owner's agent, lessee, sub-lessor, sub-lessee, or Occupant, to allow, permit or fail to prevent a Safety Violation to occur on the Real Property of the Owner.

B. It is hereby declared a violation of this Chapter for a Tenant to allow, permit or fail to prevent a Safety Violation to occur on the Real Property where he she resides.

8.48.090. Notice of Safety Violation.

A. After the Chief of Police determines four (4) or more verifiable safety violations have occurred within any twelve (12) month period, the Chief of Police has the authority to issue a written Notice of Safety Violation to the Owner of the Property and the Tenant. The Notice of Safety Violation shall be served upon the Owner of said Property by regular mail, to the mailing address indicated on the last equalized assessment roll of the Nevada County Assessor's Office. The Notice of Violation shall be sent to the Tenant by regular mail addressed to the Property, or alternatively posted at the Property. The service of a Notice of Violation, as provided in this Section, shall be prima facie evidence that the Owner or Tenant is the person in control of the Property and has knowledge of and the conduct or behavior at the Property.

B. The Notice of Safety Violation shall include, but not be limited to, the following information:

1. The Property where the safety violation occurred, including the Tenant's name where known;
2. The evidence of the safety violations occurring on the property and the Sections of the Municipal Code being violated;
3. The dates of previous verifiable safety violations and any prior responses by the Police Department to nuisance incidents on the property.

C. The notice shall set forth a reasonable time limit not to exceed thirty (30) days for correcting the safety violation and nuisance and may also set forth:

1. Suggested methods of correction or abatement, including information regarding meeting with the Police Department and potential methods of correction which may include, but are not limited to the following:

- (a) Provision of additional interior or exterior lighting;
- (b) The posting of security personnel on the property;
- (c) Installation of appropriate fencing;
- (d) Posting of signs on the property, and provisions in rental applications and agreements, which state that illegal use of controlled substances and other nuisance-creating behaviors on the property shall be grounds for eviction;
- (e) Directing that the property be managed in a manner consistent with federal, state or local law;
- (f) Hiring of a competent resident manager who has experience, education and training in rental property management;
- (g) Posting a sign on the property setting forth the name, address and daytime and evening telephone numbers of the owner or of a local property manager who is authorized to make decisions relating to management of the property;
- (h) Obtaining education and training in rental property management;
- (i) Implementation of a property management program including elements such as effective applicant screening, appropriate rental agreements, and appropriate use of eviction procedures;
- (j) Removal of graffiti; and

2. Notice that administrative penalties and/or administrative costs will be assessed against the responsible person in the event there are further safety violations.

D. The Chief of Police may grant an extension of time to correct and address a safety violation if, in his/her opinion, good cause for an extension exists. Indicia of good faith may include prompt responses to City communications and requests, active professional property management, and other steps taken to remedy the conditions contributing to the Safety Violation(s).

8.48.100. Notice of Administrative Citation.

A. If the Chief of Police determines that a subsequent Verifiable Safety Violation exists after the thirty (30) day period for remedying the safety violation that led to the Notice of Safety Violation, or any extension thereof or that a verifiable safety violation has recurred within twelve (12) months of a Notice of Safety Violation, the Chief of Police may impose an administrative citation. In the event administrative citations or costs are imposed by the Chief of Police, the Property Owner and/or Tenant shall be notified in writing of the amount of the administrative citation imposed in accordance with the provisions set forth in this Chapter, and this Code.

B. In addition to imposing administrative citations or costs, the Chief of Police or his authorized designee may issue a Notice of Safety Violation.

8.48.110. Right to a Hearing.

A. The Property Owner may appeal citations issued pursuant to this Chapter, pursuant to the procedures set forth in Chapter 1.14 of this Code.

B. The hearing shall be scheduled and conducted pursuant to Chapter 1.14 of the Grass Valley Municipal Code.

8.48.120. Safety Violation Enforcement and Fines.

A. A failure to cure the safety violations in violation of this Chapter, or additional safety violations after receipt of a Notice of Violation may result in either or both of the following actions and/or fines:

1. Issuance of administrative citation(s) and/or an order to abate the Safety Violation(s) with a fine for each and every Safety Violation not to exceed one thousand dollars (\$1,000) for each violation, plus any Administrative Expenses incurred in the enforcement of this Chapter. Each day the Safety Violation(s) continue shall be deemed a new violation subject to additional citations and fines.

2. Institution of a civil action by the City Attorney pursuant to Health and Safety Code Section 11570, et seq., and Penal Code Sections 186.22a or 11225, et seq., for injunctive relief, closure of the property for up to one year, and civil penalties in an amount not to exceed twenty-five thousand dollars (\$25,000), which shall constitute a lien on the property. In any civil action brought pursuant to this Chapter, the court may award reasonable attorney fees and costs to the prevailing party.

B. Fines will not be enforced, nor will civil action be commenced, if the Chief of Police determines that the owner is making a good faith effort to abate the Safety Violation(s).

C. When a Notice of Safety Violation or Administrative Citation have been issued, the owner of the property and any Tenant shall be jointly and severally responsible for each successive safety violation incident occurring on the property and

shall be jointly, severally and individually responsible for payment of any and all costs associated with each successive safety violation.

D. The Property Owner and/or Tenant may appeal administrative citations issued pursuant to this Chapter by following the procedures set forth in Chapter 1.14 of this Code.

8.48.130 Property Owner Notification

A. Property Owners in the City may apply with the Police Department for notification when the Grass Valley Police Department responds to a response call, verifiable safety violation, or other incident at a Property. The Owner will need to provide proof of ownership of the Property at the time of enrolling in the Property Owner Notification Program. Property Owner's enrolled in the Program have a duty to notify the Police Department upon change of ownership of the Property.

B. By establishing a Property Owner Notification Program, the City in no way guarantees that an Owner will receive notification each time the Police Department responds to the Property; instead, this enrollment is voluntary and a courtesy to the Property Owners.

C. The Police Chief shall be responsible for administering the Program, and may establish rules, procedures and an application in order to carry out this Program.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 3. EFFECTIVE DATE. This Chapter shall be in full force and effect thirty (30) days after adoption.

SECTION 4. PUBLICATION. The City Clerk shall certify to the passage and adoption of this Chapter and shall cause the same to be published once in The Union, a newspaper of general circulation, printed, published, and circulated within the City.

INTRODUCED and first read at a regular meeting of the City Council on the _____ day of _____, 2010.

FINAL PASSAGE AND ADOPTION by the City Council of the City of Grass
Valley was at a meeting thereof held on the _____ day of _____, 2010,

by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

Lisa Swarthout, Mayor

APPROVED AS TO FORM:

ATTEST:

Ruthann G. Ziegler, City Attorney
1512225.2

Kristi K. Bashor, City Clerk