

## Administrative Citation Procedure

### 347.1 PURPOSE AND SCOPE

Pursuant to Chapter 1.12 of the Elk Grove Municipal Code ("EGMC"), the foregoing procedures shall govern the Elk Grove Police Department's activities related to the issuance of Administrative Citations.

Government Code, section 53069.4 and EGMC Chapters 1.12 and 16.18 authorize designated employees to issue "administrative citations." The Administrative Citation process allows Municipal Code violations to be processed within the City and not go through the court system, which provides an effective way of obtaining compliance with the EGMC.

The purpose of issuing Administrative Citations is to achieve compliance where EGMC violations continue to exist after voluntary compliance efforts do not render reasonable results. The use of the Administrative Citation does not preclude the City from pursuing other civil or criminal remedies.

### 347.2 AUTHORIZED CITY EMPLOYEES

All Elk Grove Police Officers and Community Services Officers, and any other position designated by the City Manager, in writing, are authorized to issue Administrative Citations (EGMC Chapter 16.18.400) for violations of the EGMC.

### 347.3 ADMINISTRATIVE CITATIONS-ISSUANCE

Administrative Citations may be issued for the enforcement of any provision of the EGMC. Such citations may be issued to individuals, to the owners of real property, to the owners of businesses, to the owners of vehicles or to such other person, or firm or entity or organization which is responsible for the violation or has the duty to correct it.

### 347.4 APPLICABILITY

Voluntary compliance procedures will be used prior to issuance of Administrative Citations. Administrative Citations will be used when all efforts to encourage voluntary compliance have failed to produce a result that complies with the Elk Grove Municipal Code.

For the purposes of warning and educating visitors and citizens of the City of Elk Grove of EGMC violations, Police and Community Service Officers shall document ALL courtesy notices of potential violations. The documentation shall include pertinent information describing the incident and identify any persons responsible for the violation. Such documentation shall be in the form of one of the following methods:

Issuance of a "Door Hanger Courtesy Notice." Verbal notice documented in a law enforcement data base. Verbal notice documented in a police or crime report.

Nothing in the EGMC shall be construed or interpreted to require a warning or courtesy notice from a Police or Community Services Officer as a prerequisite to the issuance of an Administrative

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Citation. All potential EGMC violations shall be investigated considering the totality of the circumstances, considering reasonableness, and the community impact of each incident.

Administrative Citations may be issued for the following public nuisance violations per EGMC, Chapter 16.18, including, but not limited to:

- Drug abatement
- Red light violation abatement
- Disruptive activities
- Gang activity
- Graffiti Trash/garbage violations
- Noise standards violations
- Overgrown vegetation
- Exterior household storage
- Obstruction of rights-of-way
- Illegal signs Use Permit violations
- Barking Dogs (Animal Care and Regulation)
- Major Vehicle repair (MAR) in residential areas
- Illegal Vending
- Commercial vehicles in residential neighborhoods
- Spray painting vehicles without permitted paint booths
- Performing work in the right-of-way without a valid permit

#### **347.5 ADMINISTRATIVE CITATIONS-CONTENTS**

Administrative Citations must include the following information pursuant to EGMC, Chapter 1.12.050:

- (1) The name of the Responsible Person(s) to whom citation issued;
- (2) The address or location where the violation occurred;
- (3) The section(s) of this Code or other ordinance, statute, regulation, or law violated;
- (4) The actions constituting each violation(s), the date of each violation(s), and any partial compliance noted;
- (5) The manner and date by which either (a) compliance must be achieved and verified by re-inspection for each violation, and/or continuing fines stated in the citation take effect;
- (6) The amount of the administrative fine(s);

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- (7) The date that payment of the fine is due;
- (8) The form of payment and location for paying the administrative fine;
- (9) The manner requesting a re-inspection to verify compliance by the compliance deadline(s) in the citation;
- (10) The Title of "Administrative Citation";
- (11) A statement advising that the persons listed on the citation are responsible for all costs incurred by the City for any abatement hearing;
- (12) A statement advising that, pursuant to Government Code section 38773.5, the City intends to seek recovery of attorney's fees incurred in any hearing to abate a nuisance, and that attorney's fees may be recovered by the prevailing party;
- (13) A telephone number at which the City may be contacted pursuant to this Code, including, but not limited to section 1.12.070.

#### **347.6 SERVICE OF ADMINISTRATIVE CITATIONS**

In accordance with EGMC, Chapter 1.12.070, the Administrative Citation shall be served upon the Responsible Person(s) by personal delivery or by certified mail, return receipt requested, to the last known address of the Person(s) Responsible. If the Person(s) Responsible is not present for personal delivery, if certified mail is refused, or if the location of the Person(s) Responsible cannot be determined after diligent efforts, the Administrative Citation may be served by posting a copy in a conspicuous place on the affected property and by mailing a copy by first class mail to the last known address.

#### **347.7 REPORTING REQUIREMENTS**

All Administrative Citation reports will be documented in the Police Department's Report Writing System. All Administrative Citation reports shall minimally include the original Administrative Citation and the completion of the Incident Report and Suspect page to document the location of occurrence and person(s) responsible for the EGMC violation. The report shall also include the following information, but not be limited to:

- (1) A detailed description of the EGMC violation.
- (2) Any prior contacts, warnings, reports, or other information related to the responsible person or problem location, including the dates of such incidents.
- (3) A listing of any witnesses to the incident(s). This shall include identifying information useful for potential contact purposes to substantiate the EGMC violation.
- (4) A description or photographs of any damages incurred as a result of the incident.

Note: in the event a Administrative Citation

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#### **347.8 EGPD RECORDS BUREAU RESPONSIBILITIES**

It will be the Records' Bureau responsibility to forward a copy of all Administrative Citations to the City's Administrative Services Cashier to assist with collection of fines.

#### **347.9 COMPUTATION OF TIME**

The time in which any act provided by this chapter is to be done is computed by including the first and last day. If the last day for the performance of any act set forth in this chapter is a holiday, then the time in which to perform the act is extended to and includes the next day which is not a holiday. If the last day for the performance of any act provided in this chapter is Saturday or Sunday, then the time in which to perform the act is extended to and including the next Monday.

#### **347.10 RIGHTS OF APPEAL**

The person or entity has the right to contest the Administrative Citation at a public hearing before a Hearing Officer. The appeal fee must be paid at the time the appeal hearing is requested. To request a hearing, the person or entity must make the request in writing and send it to the City of Elk Grove (attention: City Clerk), 8380 Laguna Palms Way, Elk Grove, CA 95758, or in person at the same address. The

request must be received by the City of Elk Grove within ten (10) calendar days from the issuance date of the Administrative Citation. A properly filed appeal will result in written notification of the date and time set for the hearing. Failure to appear at a hearing will constitute a failure to exhaust administrative remedies.

#### **347.11 ADMINISTRATIVE REVIEW**

A Hearing Officer shall conduct an informal administrative hearing, without the use of the formal rules of evidence, to determine whether there was probable cause of the issuance of the Administrative Citation, whether more time should be granted for compliance, and whether the amount of the proposed administrative fine should be reduced or waived. At the administrative hearing, a copy of the City's document or instrument, file photographs, or other written material may be accepted as prima facie evidence of the respective facts contained in those materials. It shall not be required to have the issuing employee attend the administrative hearing, although it is recommended.

Upon receiving a written request for an appeal, the City or the Hearing Officer shall notify the requesting party in writing of the time, date and place of the hearing. Such hearing may be continued from time to time.

Decision by the Hearing Officer may be announced subsequent to the hearing. The decision of the Hearing Officer shall be final and conclusive for the City as to the impositions of the administrative fine.

The Hearing Officer or designee shall notify the person or entity to which the Administrative Citation was issued as to the decision regarding the matter, the deadline for payment of the fine or penalty,

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and state that the fine or penalty shall become due and payable if judicial review is not applied for within the time periods established in said Government Code provision.

#### **347.12 FINES AND AMOUNTS**

Pursuant to Ordinance 2005-151, the following fines shall apply:

1. \$100.00 for the first violation;
2. \$200.00 for the second violation of the same ordinance within one year from the date of issuance of the first Administrative Citation;
3. \$500.00 for the third and each additional violation of the same ordinance within one year from the date of issuance of the first Administrative Citation.

#### **347.13 APPEAL FEE**

As currently established by the Finance Department, based on a cost recovery study adjusted yearly for inflation.

#### **347.14 FINES-DUE**

Upon the date indicated in the citation and no request for an administrative hearing has been received; or

If administrative hearing is requested, upon the date indicated by the decision of the Hearing Officer; or

Failure to appear for the administrative hearing will result in payment being due immediately; or

If judicial review is requested pursuant to Government Code, Section 53069.4, upon determination by the court that the fine is proper.

#### **347.15 VIOLATION CORRECTION DATES**

Administrative Citation violations are due as specified on the citation, or within thirty (30) calendar days of issuance date of the citation, whichever is sooner.

#### **347.16 FINES-PAYMENTS AND COLLECTION**

Any fine not paid within 30 calendar days of its due date shall be deemed to be delinquent and shall be considered to be a debt to the City. The fine may be collected by any method used to collect civil debts due and owing to the City, including reference to a collections service or agency. The City may add a surcharge for any delinquent payment of fine as is provided for other civil delinquent civil debts.

Payment shall be collected by the City cashier from the Finance Department and shall be credited to the specific account for the issuing department.

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#### **347.17 FINES ADDED TO LIENS**

If the City has commenced procedures for the abatement of nuisances at the property which is the subject of the Administrative Citation, and if costs of abatement are placed as a lien against the real property, the administrative fine amount may be added to the abatement costs which are secured by the lien.

Liens not paid may be assessed against the property pursuant to Sacramento County Revenue and Taxation Code Section 4701 et seq. "Teeter Plan), and enrolled with Sacramento County Tax Collector for collections. Said assessment shall have the same priority as other City taxes.