

ORDINANCE NO. _____

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 OWNER

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 or have otherwise failed to properly maintain their property and such property has created a significant impact upon 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 nuisances that their property is creating; and

WHEREAS, the City Council has determined that enhanced penalties will give such property owners additional incentives to ameliorate the problems that their property is creating and that some property owners will never act responsibly to eliminate nuisances 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 to address chronic crime and eliminate nuisances.

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 Safety Violations Prohibited.**
- 8.48.070 Notice to Property Owner.**
- 8.48.080 Safety Violation Enforcement and Fines.**
- 8.48.090 Civil Penalties.**
- 8.48.100 Right to a Hearing.**

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 Violation” shall mean the notice provided to a Property Owner indicating that a Safety Violation has occurred on the Property.

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 role 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” shall mean any of the following activities or behaviors:

1. Evidence of the illegal manufacture, cultivation, sale, use, or possession of controlled substances or other illegal drugs and substances, including paraphernalia, evidence by the arrest of one or more persons.
2. Any drug related nuisance occurring within one year of an arrest on the premises for a Safety Violation defined in (1) above.
3. Any act of prostitution evidenced by the arrest of one or more persons.
4. Any gang related crime.

5. The unlawful possession, discharging, or brandishing of a firearm or weapon by any person.

6. Violent criminal acts, whether or not a criminal case is filed, including, but not limited to, rape, attempted rape, robbery, battery, homicide, shootings, kidnapping, or arson.

7. Disturbances occurring at parties or gatherings at which alcohol or drugs are consumed and/or crimes have occurred.

8. Allowing the occupancy load to exceed the permitted number within a Public Assembly building, as established by the California Building Code, when alcohol and/or drugs are being consumed or accessible to the gathering.

9. The occurrence of any other criminal activity not specified above which threatens the life, health, safety, or welfare of residents of the property, the neighborhood, or the public.

M. “Tenant” or “Occupant” have the same meaning and may be used interchangeably and 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.

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. Safety Violations Prohibited.

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-lessee, or Occupant, to allow, permit or fail to prevent a Safety Violation to occur on the Real Property of the Owner on a repeated basis or after receipt of a notice as set forth in this Chapter.

8.48.070. Notice to Property Owners.

A. To commence enforcement of this Chapter, the Chief of Police shall notify the Property Owner of the occurrence of a Safety Violation on the Owner's Property. The Notice shall be served upon the Property Owner personally or by U.S. mail, first class postage prepaid, and if by such mail, it shall be sent to the last known address listed on the most recent tax assessor's records. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of service by first class mail, service shall be deemed complete at the time of deposit into the U.S. mail. Where service is by first class mail, a copy of the Notice shall be conspicuously posted at the affected property when reasonably practicable for a period of not less than three (3) calendar days prior to the first date that commencement of corrective action or abatement is to be undertaken. The failure to receive a Notice sent via first class mail shall not affect the validity of any enforcement proceedings under this chapter.

B. When the Chief of Police notifies an Owner of Rental Property of a Safety Violation allegedly caused by a specific Tenant or the Tenants of a specific unit or Property, the Chief of Police may concurrently give written notice thereof to the property manager, when one is known, and the specific Tenant(s) of a unit or Property.

C. The Notice of Violation shall also contain the following information:

1. The address where the Safety Violation is occurring or has occurred.
2. A statement specifying the activities and behaviors which constitute the Safety Violation, including the names (when known) of the Tenant, Person or Persons allegedly causing the Safety Violation, and may include reasonable actions which the Chief of Police directs the Property Owner to take to abate the violation.
3. A statement informing the Owner that if any Safety Violations reoccur after thirty (30) calendar days of the date of notice, a letter will be sent to the

property owner and one of the of the listed actions and/or fines listed in section 8.48.080 will occur.

4. A statement that the Owner must, in responding to the notice and working with Tenants, comply with all applicable federal, state and local regulations relating to evictions and prohibitions against discrimination.

5. The name and contact information for the Chief of Police or an Enforcement Officer that the owner may meet with in order to discuss the Safety Violation.

D. After issuing a Notice of Violation to a Property Owner, the City shall not be responsible for providing additional Notices pursuant to this section prior to the issuance of a citation for subsequent Safety Violations that occur on the same Property that occur within the latter of: (1) three hundred sixty-five (365) days of mailing or publication of the initial notice; or (2) that occur within three hundred sixty-five (365) days following the Hearing Officer's decision pursuant to Grass Valley Municipal Code section 1.14.120.

8.48.080. Safety Violation Enforcement and Fines.

A. Any violation of this Chapter may result in any or all of the following actions and/or fines:

1. A misdemeanor punishable by either six (6) months in jail and/or a fine not to exceed One Thousand Dollars (\$1,000);

2. Institution of a civil action by the City Attorney, or his or her designee, as set forth in Chapter 1.13;

3. Issuance of administrative citation(s) and/or an order to abate the Safety Violation(s) with a fine up to Five Hundred Dollars (\$500), plus any Administrative Expenses incurred in the enforcement of this Chapter.

B. Each day a Safety Violation(s) occurs shall be deemed a new violation subject to additional citations, penalties, and fines.

C. Violation of any section of this Chapter may be filed as an infraction or a misdemeanor at the discretion of the City Attorney.

D. All fines shall be the obligation of the Owner, and unless an appeal is filed, such fines are due and payable within thirty (30) days of issuance of the citation, pursuant to Section 1.14.080. Any fine or Administrative Expense not paid within the time limits set forth shall be collected pursuant to the procedures contained in Chapter 1.14.

8.48.090. Civil Penalties.

A. In addition to the enforcement and fines described herein, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.13 of the Grass Valley Municipal Code against any Owner who violates this Chapter. In any civil action brought pursuant to this Chapter, the court may award reasonable attorney fees and costs to the prevailing party.

B. The City may pursue any other legal remedy to enforce or collect any fines or amounts owed as set forth herein.

8.48.100. 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.

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
1368844.2

Kristi K. Bashor, City Clerk