

VILLAGE OF ELK RAPIDS

SECOND READING -PROPOSED ORDINANCE #459

AMENDMENT TO THE VILLAGE OF ELK RAPIDS CODE OF ORDINANCES

AN ORDINANCE FOR THE EXERCISE OF MUNICIPAL CODE ORDINANCES OF THE VILLAGE OF ELK RAPIDS AND FOR THE HEALTH, SAFETY AND WELFARE OF THE PERSONS AND PROPERTY IN THE VILLAGE OF ELK RAPIDS.

THE VILLAGE OF ELK RAPIDS ORDAINS TO AMEND THE VILLAGE OF ELK RAPIDS CODE OF ORDINANCES AS FOLLOWS:

CHAPTER 2: ADMINISTRATION.

ENACT: CHAPTER 2, SECTION 2-76, AUTHORITY TO APPOINT, REMOVE, DIRECT, AND SUPERVISE APPOINTED OFFICIALS AND EMPLOYEES as follows:

Pursuant to chapter 5, section 8(4), of the General Village Law Charter, being Public Act No. 3 of 1895 (MCL 65.8(4)), to the fullest extent permitted by law and ordinance, the village manager shall have authority to appoint, remove, direct, and supervise any employee or appointed official of the village, except to the extent such authority is expressly reserved to council or delegated to another village official or employee by village ordinance or an employment contract.

Pursuant to MCL 65.8, the assignment of responsibilities above, and any amendments adopted concurrently with this section, will become effective 45 days after the date of adoption of this section and amendments to this Ordinance. However, if a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, the amendments to this Ordinance shall not become effective until after the Ordinance is approved at an election held on the question.

AMEND: CHAPTER 2, DIVISION 2: VILLAGE MANAGER, SECTION 2-93, FUNCTION AND DUTIES as follows:

The village manager shall be responsible to the village council for the proper administration of all of the affairs of the village, and, to that end, subject to the provisions of the village Charter, shall have the following functions and duties:

- (1) Ensure that all village laws and ordinances are being enforced by appropriate authorities;
- (2) Ensure that all village contracts and franchises are being properly performed and, in the event of default or breach, to seek council approval for appropriate enforcement action;

(3) Supervise all village public utilities, improvements, works and undertakings and the finances of the village;

(4) **Appoint, remove, direct, and supervise** ~~Recommend to the president and the council the employment and discharge of~~ the officers and employees in the departments under his jurisdiction **(including department heads), subject to Council's approval of the terms of any employment contract for officers and employees;**

(5) Attend all meetings of the village council and to take part therein but without a vote;

(6) Prepare the annual itemized budget and to keep the council fully advised as to the financial conditions and needs of the village;

(7) Act as purchasing agent as provided in section 2-256

(8) Recommend to the village council for adoption such measures as may be deemed necessary or expedient;

(9) Be an ex officio member of all commissions of the village without the right to vote;

(10) Be responsible to the village council for the efficient administration of all village departments and utilities;

(11) Be responsible to the village council for the proper discharge of all just obligations of the village;

(12) Make investigations into the affairs of the village or any department or division thereof and investigate all complaints in relation to all matters concerning the government of the village in regard to service maintained by the public utilities in the village and see that all franchises, permits and privileges granted by the village are faithfully observed;

(13) Perform such other duties as the village council may direct that naturally pertain to the general management of village affairs and shall execute and perform all administrative functions of the village that are not imposed by the Charter or any village ordinance upon other officials;

(14) Perform such other duties as the village council may direct that naturally pertain to the general management of village affairs and shall execute and perform all administrative functions of the village that are not imposed by the Charter or any village ordinance upon other officials.

AMEND: CHAPTER 2, DIVISION 3: VILLAGE CLERK, SECTION 2-107, APPOINTMENT as follows:

The village clerk shall be appointed by the **village manager** ~~village council after nomination of such individual by the village council president.~~

AMEND: CHAPTER 2, DIVISION 3: VILLAGE CLERK, SECTION 2-108, TERM OF OFFICE as follows:

(a) The village clerk shall be appointed for an indefinite term of office and shall serve at the pleasure of the council **and the village manager, subject to direction and supervision by the village manager.**

(b) At all times during such term of office, the clerk shall not be in default to the village, as defined in section 7 of Chapter 2 of Public Act No. 3 of 1895 (MCL 62.7) and shall give and maintain any bond or security required for the performance of his office as required by Public Act No. 3 of 1895 (MCL 61.1 et seq.)

(c) Further, the clerk shall, within 30 days after receiving notice of appointment to the position of village clerk, take the oath of office prescribed by the constitution of the state and file the oath according to statute.

AMEND: CHAPTER 2, DIVISION 3: VILLAGE CLERK, SECTION 2-109, TERMINATION OF APPOINTMENT; REMOVAL as follows:

(a) As set forth in this division, the village clerk's term being for an indefinite period and such individual serving at will at the pleasure of the village council **and village manager**, the ~~appointment of the clerk~~ may be **suspended or removed** ~~terminated~~ at any time when the **village manager, or the** village president, acting with the approval of the village council, deems the same to be in the best interest of the public.

(b) In addition thereto, the clerk may be suspended for neglect of duty by the village president and may be, with the approval of the village council, removed when the council and the president deem the same to be in the best interest of the public.

(c) Provided further, however, that in the event of the suspension or removal by the **village manager or the** village president and not termination by full action by the village council, the clerk shall be entitled **upon request** to a due process hearing before the village council as a whole, ~~in accordance with procedures established~~ **to the extent required** for hearings relating to appointed officials. The action of the village council, as a whole, in removing the village clerk or upholding the suspension, shall be deemed final.

AMEND: CHAPTER 2, DIVISION 4: VILLAGE TREASURER, SECTION 2-117, APPOINTMENT as follows:

The village treasurer shall be appointed by the **village manager** ~~village council~~ after nomination of such individual by the ~~village council president~~.

AMEND: CHAPTER 2, DIVISION 4: VILLAGE TREASURER, SECTION 2-118, TERM OF OFFICE as follows:

(a) The village treasurer shall be appointed by the village council after nomination of such individual by the village council president and shall serve at the pleasure of the council **and the village manager, subject to direction and supervision by the village manager.**

(b) At all times during such term of office, the treasurer shall not be in default to the village, as defined in section 7 of chapter 2 of Public Act No. 3 of 1895 (MCL 62.7) and shall give and maintain any bond or security required for the performance of his or her office as required by Public Act No. 3 of 1895 (MCL 61.1 et seq.) or the village council.

(c) Further, the treasurer shall, within 30 days after receiving notice of appointment to the position of village treasurer, take the oath of office prescribed by the Constitution of the state and file the oath according to statute.

AMEND: CHAPTER 2, DIVISION 4: VILLAGE TREASURER, SECTION 2-119, TERMINATION OF APPOINTMENT; REMOVAL as follows:

(a) As set forth in this division, the village treasurer's term being for an indefinite period and such individual serving at will at the pleasure of the village council **and village manager**, the ~~appointment of the treasurer may be terminated~~ **suspended or removed** at any time when the **village manager, or the** village president, acting with the approval of the village council, deems the same to be in the best interest of the public.

(b) In addition thereto, the treasurer may be suspended for neglect of duty by the village president and may be, with the approval of the village council, removed when the council and the president deem the same to be in the best interest of the public.

(c) Provided further, however, that in the event of the suspension or removal by the **village manager or the** village president and not termination by full action by the village council, the treasurer shall be entitled **upon request** to a due process hearing before the village council as a whole, ~~in accordance with procedures established~~ **to the extent required by law** for hearings relating to appointed officials. The action of the village council, as a whole, in removing the village treasurer or upholding the suspension, shall be deemed final.

AMEND: CHAPTER 18, ARTICLE II: MUNICIPAL MARINA AND BOATING FACILITY, SECTION 18-23, HARBORMASTER as follows:

~~The president may nominate and the council may~~ **village manager may** appoint a harbormaster of the village boating facilities and marina. The harbormaster shall have the authority to enforce the provisions of this article and any regulation promulgated under this article governing the operations and use of the municipal facilities and marina as set forth in this article, and make complaints for violation of this article. **The village manager shall have authority to remove, direct, and supervise the harbormaster, pursuant to Section 2-7 and Section 2-93(4) of the village general code of ordinances.**

