

## **CHAPTER 6 – PUBLIC SAFETY, OFFENSES, AND MUNICIPAL CIVIL INFRACTIONS**

### **ARTICLE I – FIRE PREVENTION AND PROTECTION**

Division 1. In General

Division 2. Open Burning

### **ARTICLE II, - TRAFFIC AND VEHICLES**

Division 1. Adoption of Uniform Vehicle Code

Division 2. Adoption of Uniform Traffic Code

Division 3. Regulations

Division 4. Bicycles

Division 5. Coaster Wheeled Devices

Division 6. Snowmobiles

### **ARTICLE III, OFFENSES**

Division 1. In General

Division 2. Nuisances

- A. In General.
- B. Dismantled or Inoperable Motor Vehicles.
- C. Litter.
- D. Noise.
- E. Fireworks.
- F. Smoking.

### **ARTICLE IV, MUNICIPAL CIVIL INFRACTIONS**

Division 1. In General

Division 2. Civil Infraction Violations

**CHAPTER 6 – PUBLIC SAFETY, OFFENSES, AND MUNICIPAL CIVIL INFRACTIONS**

**ARTICLE I – FIRE PREVENTION AND PROTECTION**

**DIVISION 1. IN GENERAL**

Sec. 6-1. Adoption of state law

Sec. 6-2. Obstruction of fire hydrants.

Sec. 6-3. Penalty for violation of article.

Sec. 6-4\_6-20. Reserved.

**Sec. 6-1. Adoption of state law.**

- a. State Fire Prevention Code, MCL 29.1 et seq.; Fire Prevention Act, MCL 41.801 et seq.; Crimes Related to Fires, MCL 750.240 et seq., and all future amendments and revisions thereto when they are effective in this state are incorporated and adopted by reference.

(Ord. #490, passed 07-16-18)

**Sec. 6-2. Obstruction of fire hydrants.**

- a. No person shall place any obstruction whatsoever, within 15 feet of any fire hydrant, nor shall any person responsible for such obstruction, permit it to remain.

(Ord. #490, passed 07-16-18)

**Sec. 6-3. Penalty for violation of article.**

- a. Any person who shall violate any provision of this article shall, upon conviction, be penalized as provided by state statute. Each failure to comply with any provision of this article shall constitute a separate violation.

(Ord. #490, passed 07-16-18)

**Sec. 6-4 6-20. Reserved.**

(Ord. #490, passed 07-16-18)

**DIVISION 2. OPEN BURNING**

Sec. 6-21. Definitions.

Sec. 6-22. Burning of garbage and rubbish.

Sec. 6-23. Burning of wood and wood byproducts.

Sec. 6-24. Woodstoves; fireplaces; smokehouses; barbecues.

Sec. 6-25. Open fires required by business operation.

Sec. 6-26. Burning of leaves.

Sec. 6-27. Weather conditions.

Sec. 6-28\_6-40. Reserved.

**Sec. 6-21. Definitions.**

- a. Words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.
  - Disposal: The storage, collection, burning or handling of refuse.
  - Fire pit: A dug out or depressed area in the land, lower than ground level, in which wood or wood byproducts are burned. It also includes above ground and portable equipment used for the same purpose.
  - Garbage: All animal and vegetable waste resulting from the handling, preparation, cooking or consumption of agricultural, dairy or meat products, including any materials resulting from the handling, preparation, cooking or consumption of foods.
  - Leaves: Shall have its ordinary and common meaning, being the foliage on trees, both deciduous and non-deciduous, and shall also include the branches of trees less than one inch in diameter.
  - Premises: Land area surrounding and including any dwelling or accessory structure described legally by a metes and bounds description or by reference to a lot number in a plat.
  - Rubbish: Glass, chemicals, plastics, rubber and all other non-perishable solid waste, with the exception of wood, wood byproducts and leaves as defined in this section.
  - Structure: Construction or any production or piece of work artificially built up or composed of parts joined together in some definite manner.

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

- Wood and wood byproducts: Shall have their ordinary meaning and include all materials derived from trees or plants, or branches of trees or plants more than one inch in diameter, and shall include such wood byproducts as paper, cardboard, fiberboard and the like, except treated lumber.

(Ord. #490, passed 07-16-18)

**Sec. 6-22. Burning of garbage and rubbish.**

- a. The burning by fire, including incineration, of any garbage or rubbish upon or adjacent to any premises located within the village limits shall be strictly prohibited.

(Ord. #490, passed 07-16-18)

**Sec. 6-23. Burning of wood and wood by-products.**

- a. The burning by fire of any wood or wood byproduct upon or adjacent to any premises located within the village limits may be permitted provided the following conditions are met:
  1. An appropriate burn permit is obtained from the State Department of Natural Resources where required under state law or regulation.
  2. The fire is attended/supervised at all times during the burn.
  3. Burning, as permitted under this article, shall be in a location, a minimum of 50 feet from the nearest structure, whether it is a residence, garage, barn, etc.
  4. Wood or wood byproducts may be burned in a fire pit larger than six feet in diameter or in an open field, or within a properly vented incineration system approved by the Department of Environmental Equality, Air Quality Division.
  5. Wood, but not wood by-products may be burned in fire pits of less than six feet in diameter for recreational purposes, provided that the fire is not in such proximity to structures, vegetation or lot lines as to constitute a hazard or nuisance.

(Ord. #490, passed 07-16-18)

**Sec. 6-24. Woodstoves; fireplaces; smokehouses; barbecues.**

- a. Nothing in this article shall limit or preclude any person owning or being responsible for any premises, either as landlord or tenant, from burning wood in approved home heating systems, whether by virtue of woodstoves, fireplaces, furnaces, or any combination of such devices; nor does this article preclude the use of smokehouses for curing, smoking

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

fish, poultry or other products for personal consumption, so long as the square footage of such a smokehouse does not exceed 25 square feet.

- b. Nothing in this article shall preclude the use of open fires located within a stationary or portable enclosure designed for the purpose of food preparation on private property, or within approved fire pits or fire rings provided by the village according to applicable rules and regulations on public property.
- c. Other than provided in sub-section b., above, open fires or campfires on public property is strictly prohibited.

(Ord. #490, passed 07-16-18)

**Sec. 6-25. Open fires required by business operation.**

- a. Nothing in this article shall limit or preclude roofers, plumbers, bricklayers, or other similar businesses or trades from the use of a fire in the course of their business or trade, in a safe and sanitary manner.

(Ord. #490, passed 07-16-18)

**Sec. 6-26. Burning of leaves.**

- a. The burning of leaves upon or adjacent to any premises located within the village limits or in village streets or alleys, shall be strictly prohibited.

(Ord. #490, passed 07-16-18)

**~~Sec. 6-27. Weather conditions.~~**

- a. No burning shall be done at any time or place when wind or weather conditions will create, or be apt to create, a nuisance to anyone or the property of anyone in the vicinity of such burning, or to be a danger to property in the vicinity.

(Ord. #490, passed 07-16-18)

**Sec. 6-28\_6-40. Reserved.**

(Ord. #490, passed 07-16-18)

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

**ARTICLE II – TRAFFIC AND VEHICLE REGULATIONS**

DIVISION 1. ADOPTION OF UNIFORM VEHICLE CODE

DIVISION 2. ADOPTION OF UNIFORM TRAFFIC CODE

DIVISION 3. PARKING REGULATIONS

DIVISION 4. BICYCLES

DIVISION 5. COASTER WHEELED DEVICES

DIVISION 6. SNOWMOBILES

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

**DIVISION 1. ADOPTION OF UNIFORM VEHICLE CODE**

Sec. 6-41. Code and Amendments and Revisions Adopted.

Sec. 6-42. References in Code.

Sec. 6-43. Notice to be Published.

Sec. 6-44. Penalties

Secs. 6-45\_6-60. Reserved

**Sec. 6-41. Code and Amendments and Revisions Adopted.**

- a. The Michigan Vehicle Code 1949 PA 300, MCL 257.1 to 257.923, and all future amendments and revisions to the Michigan Vehicle Code when they are effective in this state are incorporated and adopted by reference.

(Ord. #490, passed 07-16-18)

**Sec. 6-42. References in Code.**

- a. References in the Uniform Vehicle Code for Cities, Townships, and Villages to a “local authorities” shall mean the Village of Elk Rapids.

(Ord. #490, passed 07-16-18)

**Sec. 6-43. Notice to be Published.**

- a. The Village Clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code for Cities, Townships, and Villages and the fact that a complete copy of the code is available to the public at the office of the Village Clerk for inspection.

(Ord. #490, passed 07-16-18)

**Sec. 6-44. Penalties**

- a. The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the Village may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(Ord. #490, passed 07-16-18)

**Secs. 6-45\_6-60. Reserved**

(Ord. #490, passed 07-16-18)

**DIVISION 2. ADOPTION OF UNIFORM TRAFFIC CODE**

Sec. 6-61. Code and Amendments and Revisions Adopted

Sec. 6-62. References in Code

Sec. 6-63. Notice to be Published

Sec. 6-64. Penalties

Sec. 6-65\_6-75. Reserved.

**Sec. 6-61. Code and Amendments and Revisions Adopted**

- a. The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.  
(Ord. #490, passed 07-16-18)

**Sec. 6-62. References in Code**

- a. References in the Uniform Traffic Code for Cities, Townships, and Villages to a “governmental unit” shall mean the Village of Elk Rapids.  
(Ord. #490, passed 07-16-18)

**Sec. 6-63. Notice to be Published**

- a. The Village Clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships, and Villages and the fact that a complete copy of the code is available to the public at the office of the Village Clerk for inspection.  
(Ord. #490, passed 07-16-18)

**Sec. 6-64. Penalties**

- a. The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.  
(Ord. #490, passed 07-16-18)

**Sec. 6-65\_6-75. Reserved.**

(Ord. #490, passed 07-16-18)



**DIVISION 3. PARKING REGULATIONS**

Sec. 6-76. Definitions.

Sec. 6-77. Overnight parking restrictions.

Sec. 6-78. Restricted parking in municipal parking lot.

Sec. 6-79. Parallel and angle parking.

Sec. 6-80. Prohibited street and alley parking.

Sec. 6-81. Trailers in municipal parking lot.

Sec. 6-82. Camping, sleeping or living in vehicles.

Sec. 6-83. Registration of vehicle.

Sec. 6-84\_6-90. Reserved.

**Sec. 6-76. Definitions.**

- a. Words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Camper: A separate vehicle designed for human habitation and which can be attached or detached from a pickup truck.

Motor home: A self-contained vehicle designed for human habitation, with its own motor power, and with a passageway from the body of the home to the driver's and front passenger's seat.

Motor vehicle: Every vehicle which is self-propelled.

Street/Alley: That public area as measured from right-of-way line to right-of-way line.

Trailer: A vehicle without motive power designed for carrying persons or property on its own structure and to be drawn by a vehicle with motive power.

(Ord. #490, passed 07-16-18)

**Sec. 6-77. Overnight parking restrictions.**

- a. It shall be unlawful to park a motor vehicle, camper, motor home or trailer on any street or alley within the corporate limits of the village between the hours of 3:00 a.m. and 6:00 a.m. of each day from November 1 of each year to April 1 of the succeeding year.
- b. It shall be unlawful to park a motor vehicle, camper, motor home or trailer on any street with curb and gutter during all months of the year from 3:00 a.m. to 6:00 a.m.  
(Ord. #490, passed 07-16-18)

**Sec. 6-78. Restricted parking in municipal parking lots.**

- a. The village municipal parking lot on Cedar St. will have restricted parking on posted days, hours, and locations from November 1 of each year to April 1 of the succeeding year.
- b. Except for snow removal, parking will be limited to 48 continuous hours in the village municipal parking lot on Cedar Street.
- c. There shall be no parking in the Traverse St. parking lot between the hours of 3:00 a.m. and 6:00 a.m.  
(Ord. #490, passed 07-16-18)

**Sec. 6-79. Parallel and angle parking.**

- a. Parallel parking shall be allowed on all streets except where prohibited.
- b. Angle parking shall only be allowed in properly marked angle parking areas.  
(Ord. #490, passed 07-16-18)

**Sec. 6-80. Prohibited street and alley parking.**

- a. Parking shall be prohibited on the following streets and alleys:
  - Millers Park Road;
  - Henry St.;
  - Park St., west side;
  - East Third St., south side from Park St. to Meguzee Point;
  - Pine St., from River St. to the alley south of River Street;
  - Noble St., except as marked;
  - Harbor Drive;
  - Cedar St., from Noble St. to Harbor Drive;
  - Isle of Pines;
  - Cedar St., west side, from River St. to Harbor Drive;
  - East Side of North Bayshore from Dexter St. to US 31 cut-over.
- b. The Village Council may, eliminate prohibited parking or add permitted parking on streets or alleys as the council deems necessary for the safety and welfare of village residents. Such regulations shall be published in a newspaper of general circulation within 15 days

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

of adoption of the ordinance, and each of such additional streets or alleys shall be properly posted with applicable parking restrictions using appropriate signs.

- c. Parking shall be prohibited on the following streets and alleys between the hours of 3 a.m. and 6 a.m.:
- North side of River St. from the library foot bridge to Oak St. curve including parking cut outs at Veterans Memorial Park.
- (Ord. #490, passed 07-16-18)

**Sec. 6-81. Trailers in municipal parking lot.**

- a. No vehicle-drawn trailers of any type, whether attached or detached from a vehicle, shall be parked in the municipal parking lots located at Cedar St. and Traverse St., except as may be authorized by the Village Manager.
- (Ord. #490, passed 07-16-18)

**Sec. 6-82. Camping, sleeping or living in vehicles.**

- a. Except as may be provided in the Village of Elk Rapids Zoning Code, or as may be authorized by the Village Manager, it shall be unlawful to park a motor vehicle, camper, motor home, or trailer on any street, alley, park or parking lot in the village for the purpose of camping, sleeping or living in a motor vehicle, camper, motor home or trailer.
- (Ord. #490, passed 07-16-18)

**Sec. 6-83. Registration of vehicle.**

- a. The fact that any defined motor vehicle, camper, motor home or trailer which is illegally parked is registered in the name of a person or other party shall be considered prima facie proof that such person or other party was in control of the defined motor vehicle, camper, motor home or trailer at the time of such parking.
- (Ord. #490, passed 07-16-18)

**Secs. 6-84\_6-95. Reserved.**

(Ord. #490, passed 07-16-18)

**DIVISION 4. BICYCLES**

Sec. 6-96. Traffic rules apply.

Sec. 6-97. Penalty for violation of article.

Sec. 6-98. Bicycle prohibitions.

Sec. 6-99\_6-115. Reserved.

**Sec. 6-96. Traffic rules apply.**

- a. All bicycles shall abide by all traffic laws and rules set forth in the state Uniform Traffic Code, that are applicable, as well as those contained in this Division.

(Ord. #490, passed 07-16-18)

**Sec. 6-97. Penalty for violation of article.**

- a. A person who violates any provision of this division is responsible for a municipal civil infraction subject to payment of fines established by resolution of the Village Council together with the cost of prosecution.

(Ord. #490, passed 07-16-18)

**Sec. 6-98. Bicycle prohibitions.**

- a. No person shall ride a bicycle in a park or upon a sidewalk on any of the following streets or public walkways:

- River Street, from Bridge Street to Spruce Street
- All public walkways
- Island House Bridge

- b. No person shall park a bicycle in any street, alley or public place except in a standing position, and no person shall park a bicycle on any sidewalk except in standards provided therefor by the village. No person shall chain or otherwise secure a bicycle to any public utility pole, light pole, or flag pole.

(Ord. #490, passed 07-16-18)

**Sec. 6-99\_6-115. Reserved.**

(Ord. #490, passed 07-16-18)

**DIVISION 5. COASTER WHEELED DEVICES**

Sec. 6-116. Definitions.

Sec. 6-117. Penalty for violation of article.

Sec. 6-118. Adding or eliminating of sidewalks; notice; signs.

Sec. 6-119. Use restricted; violation a civil infraction.

Sec. 6-120\_6-140. Reserved.

**Sec. 6-116. Definitions.**

- a. Words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- Coaster wheeled devices: Any roller skates, roller blades, skateboards or similar devices operated or propelled on or by a coaster type wheel. These coaster wheels are usually, but not always, propelled by human power which often times control the movement and direction of the object.

(Ord. #490, passed 07-16-18)

**Sec. 6-117. Penalty for violation of article.**

- a. Any person violating this article or any parent of a dependent child that violates this article shall be guilty of a civil infraction. Violation of this article shall carry fines established by resolution of the Village Council together with the cost of prosecution.

(Ord. #490, passed 07-16-18)

**Sec. 6-118. Adding or eliminating of sidewalks; notice; signs.**

- a. The council may add or eliminate sidewalks adjacent to streets as the council deems necessary for the safety and welfare of village residents. Such regulations may be reflected by a resolution of the council which shall be published in a newspaper of general circulation within 15 days of passage of the resolution, and each of such additional sidewalks shall be properly posted with applicable restrictions using appropriate signs.

(Ord. #490, passed 07-16-18)

**Sec. 6-119. Use of coaster wheeled devices, prohibitions and exceptions.**

- a. Purpose: The Village Council finds that skateboards, long boards, roller skates and inline skates are acceptable modes of transportation. The Village Council further finds that persons operating skateboards, long boards, roller skates and inline skates downtown create the potential for significant property damage and personal injury to themselves and others, when their conduct is not regulated. The Village Council finds these problems and concerns are most acute in the downtown area because of heavy pedestrian and vehicular traffic and because the unique physical features in the

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

downtown area are attractive to persons using skateboards, long boards, roller skates and inline skates.

Thus, the purpose of this Section is to allow skateboarding, long boarding, roller skating and inline skating in the Village as a mode of transportation, while simultaneously limiting the risk of property damage and personal injury associated with skateboards, long boards, roller skates and inline skates by prohibiting their use anywhere in the downtown area except as specified in this Section.

- b. **Prohibited Conduct:** No person shall ride, propel, push or otherwise operate a skateboard, long board, roller skates or inline skates anywhere within the area described in paragraph (D). This prohibition is subject to the exceptions set forth in paragraph (C).
- c. **Exceptions:** Notwithstanding the prohibitions contained in the foregoing Section, riding, propelling, pushing or otherwise operating a skateboard, long board, roller skates or inline skates is expressly permitted as follows:
  - 1. Persons under the age of 13 must be accompanied by an adult or guardian over the age of 21 in order to ride, propel, push or otherwise operate a skateboard, long board, roller skates or inline skates anywhere within the Village.
  - 2. Persons may ride, Persons may ride, propel, push or otherwise operate a skateboard, long board, roller skates or inline skates in facilities specifically designated for use of skateboards; and
  - 3. Persons may ride, propel, push or otherwise operate a skateboard, long board, roller skates or inline skates on any private property where the owner has given permission for such use.
- d. **Area in Which Prohibition Applies:** The area of the Village in which the prohibition of paragraph (B) applies is the Downtown Area, specifically along River Street, between US31 and Spruce Street; anywhere on Ames Street; or on Bridge Street between River Street and First Street.
- e. **Rights and Responsibilities:** Persons operating skateboards, long boards, roller skates, and inline skates within the Village of Elk Rapids shall possess the same rights and responsibilities pursuant to Village Code as the operator of a bicycle possesses under the Michigan Motor Vehicle Code and Village Code.
- f. **Reflective Clothing and Lights:** No person shall ride, propel, push or otherwise operate a skateboard, long board, roller skates or inline skates during limited visibility conditions or between the hours of sunset and sunrise, unless such person:

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

- Displays a white light on the front of his or her person above the waistline, with that light plainly discernable from a distance of not less than three hundred (300) feet ahead; and
  - Wears reflective clothing above the waistline, as the outermost layer of clothing.
- g. Enforcement: This Section may be enforced by any police officer or by any other Village employee authorized to issue appearance tickets for violation of the Village Code and by any other Village employee specifically authorized by the Village Manager to issue appearance tickets for violation of this Section.
- h. Violation a Civil Infraction: A violation of this Section shall be a municipal civil infraction punishable by a fine as established in this Village Code.
- i. Confiscation of Property: No person empowered to enforce this Chapter shall confiscate or impound any skateboard, long board, roller skates or inline skates from any person who is riding, propelling, pushing or otherwise operating a skateboard, long board, roller skates or inline skates, during enforcement of this Chapter.

(Ord. #490, passed 07-16-18)

### **Sec. 6-120\_6-140. Reserved.**

(Ord. #490, passed 07-16-18)

**DIVISION 6. SNOWMOBILES**

Sec. 6-141. Definitions.

Sec. 6-142. Operation on streets, alleys or parks.

Sec. 6-143\_6-155. Reserved.

**Sec. 6-141. Definitions.**

- a. Words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.
  - Snowmobile: Any motor-driven vehicle designed for travel primarily on snow or ice as defined by state statute, "Snowmobile defined", that being, MCL 324.82101.

(Ord. #490, passed 07-16-18)

**Sec. 6-142. Operation on streets, alleys or public lands.**

- a. The operation of a snowmobile shall be prohibited on any public lands, public streets, alleys within the village except for those activities allowed in accordance with rules, regulations and travel routes, which the council, by resolution, may establish.
- b. Operation of a snowmobile within the Village shall be in accordance with "Regulations applicable to operation of snowmobile", that being, MCL 324.82126, and the following:
  1. No person shall drive or operate a snowmobile upon private property in the village between the hours of 10:00 p.m. and 7:00 a.m.
  2. No person shall drive or operate a snowmobile on any private property within the corporate limits of the village without the consent of the owners.
  3. No person shall drive or operate a snowmobile In excess of 15 miles per hour on public rights-of-way designated travel routes.

(Ord. #490, passed 07-16-18)

**Sec. 6-143\_6-155. Reserved.**

(Ord. #490, passed 07-16-18)



**ARTICLE. III. OFFENSES**

DIVISION 1. IN GENERAL

DIVISION 2. NUISANCES

- A. In General.
- B. Dismantled or Inoperable Motor Vehicles.
- C. Litter.
- D. Noise.
- E. Fireworks.
- F. Smoking.

**DIVISION 1. IN GENERAL**

**Sec. 6-156. Offenses.**

- a. Offenses affecting governmental functions, against the person, against property, against the public peace, against public morals, and against public safety, shall be enforced and adjudicated in accordance with the Michigan Penal Code, Act 328 of 1931, Sec. 750., as may be amended.
- b. No person shall possess, use, or discharge a pistol or other firearm within the jurisdiction of the Village in a manner that violates federal or state law.
- c. An individual is prohibited from pointing, waving about, or displaying a pneumatic gun in a threatening manner with the intent to induce fear in another individual. An individual below the age of 16 who is in possession of a pneumatic gun must be under the supervision of a parent, a guardian, or an individual 18 years of age or older, except that an individual below the age of 16 may possess a pneumatic gun on or within private property if the individual below the age of 16 is authorized by a parent or guardian and the property owner or legal possessor to possess the pneumatic gun.
- d. No person shall discharge a slingshot or bow and arrow in the village, except when lawfully acting in the defense of persons or property or in the enforcement of law or at a duly established range, the operation of which has been approved by the Village Council.

(Ord. #490, passed 07-16-18)

**Sec. 6-157. Definitions.**

- a. Words, terms and phrases shall have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
  - 1. Abandoned property: Deteriorated, wrecked or derelict property in unusable condition having no value other than nominal scrap or junk value, if any, and which

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

has been left unprotected from the elements, including, without being so restricted, deteriorated, wrecked, inoperative or partially dismantled motor vehicles (except motor vehicles subject to removal under section 2.5 et seq. of the uniform traffic code codified in Article II, Div. 2., of this Chapter; and the associated sign structures when the business, product or service advertised is no longer conducted, sold or offered on the premises or is no longer a bona fide business conducted, product sold or service offered; trailers, boats; machinery; refrigerators; washing machines; plumbing fixtures; furniture; and any other similar articles in such condition.

2. Applicable building code: The building code pursuant to the State Construction Code Act (MCL 125.1501 et. seq.), any code or standards applicable to a mobile home or other pre-manufactured unit or structure and the State Housing Law pertaining to "dangerous buildings", being sections 138 through 143 of Public Acts Act No. 1 of 1917, as amended.
3. Building materials: Any materials useful in the construction of buildings or other structures and includes, but shall not be limited to: lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete and cement.
4. Dangerous structure: Any building, structure or mobile home, residential or otherwise, that has one or more of the following defects or is in one or more of the following conditions:
  - A portion of the building, structure or mobile home is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building, structure or mobile home does not meet the minimum requirements of the Housing Law of the State of Michigan, Public Acts No. 167 of 1917 (MCL 125.401 et seq.), as amended, or the applicable building code.
  - A part of the building, structure or mobile home is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
  - The building, structure or mobile home, or part of the building, structure or mobile home, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building, structure or mobile home is likely to fall or give way.

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

- The building, structure or mobile home or a part of the building, structure or mobile home, is manifestly unsafe for the purpose for which it is used or intended to be used.
  - The building, structure or mobile home is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to individuals who might use the building, structure or mobile home to their danger.
  - A building, structure or mobile home used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that is likely to cause sickness or disease, or is likely to be injurious to the health, safety or general welfare of people living in or near the dwelling.
  - A building, structure or mobile home is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by unauthorized persons, children, vagrants or wild life.
5. Dismantled/partially dismantled motor vehicle: Any motor vehicle from which some part, ordinarily a component of such motor vehicle, has been removed or is missing.
  6. Enforcing agency: The Village of Elk Rapids Village Council through the ordinance enforcement officer or such other official(s) or agency as may be designated by the village council to enforce this division.
  7. Enforcement officer: Any officer, investigator or inspector representing the village as designated by the village council.
  8. Hearing officer: A person(s) appointed by the village president, with approval of the village council, to serve at the president's pleasure, having expertise in housing matters, including, but not limited to, a licensed professional engineer, architect, building contractor, building inspector or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a hearing officer.
  9. Inoperable motor vehicle: A motor vehicle which, by reason of dismantling, disrepair, lack of licensing, or other cause, is incapable of being propelled under its own power, or is prevented or prohibited by law from being so propelled.
  40. Motor vehicle: Every vehicle that is self-propelled.

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

11. Obliterate: To render undecipherable by means such as, but not limited to, painting or sandblasting.
12. Private premises: Any premises owned by a private person or private entity and any portion of a street right-of-way immediately adjoining such premises which separates such premises from a roadway.
13. Public places: Any premises including, but not limited to, a street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.
14. Remove: To physically take away. In the case of a sign which advertises a use which conforms to the definition of the term "abandoned property," as defined in this section, the term "remove" means to dismantle and physically take away. In the case where the nature of the sign dictates that they may not be physically removed, such messages shall be obliterated.
15. Trash: Includes, but is not limited to, the following:
  - Garbage: all organic refuse and rejected food wastes.
  - Ashes: the residue left from burning of paper, leaves, weeds, wood and coal.
  - Kitchen rubbish: all types of food containers and wrappings, including cans, bottles, jars, broken glass, crockery, paper and wood boxes, and metal objects.
  - Household rubbish: all types of household materials commonly discarded, such as newspapers, magazines, books, wrappings, cartons, boxes, crates, excelsior, rags, clothing, bedding, floor covering, wallpaper, leather objects and sweepings.
  - Yard rubbish: all materials which grow on the property such as grass clippings, weeds, leaves, plants, garden trash, clippings from hedges and shrubs, branches and small roots and stumps.

(Ord. #490, passed 07-16-18)

**Sec. 6-158\_6-170. Reserved.**

(Ord. #490, passed 07-16-18)

**DIVISION 2. NUISANCES**

- A. IN GENERAL.
- B. DISMANTLED OR INOPERABLE MOTOR VEHICLES.
- C. LITTER.
- D. NOISE.
- E. FIREWORKS.
- F. SMOKING.

**A. IN GENERAL.**

**Sec. 6-171. Purpose of this division.**

- a. This division is enacted for the purpose of protecting and promoting the public health, safety and general welfare of the village; to protect against and lessen the danger to human life, health and property from fire, explosion, accidents and other hazards on private premises and public places; and to protect against and prohibit the creating or continuance of nuisances.

(Ord. #490, passed 07-16-18)

**Sec. 6-172. Declaration of nuisance.**

- a. Sections and Sub-Sections as prohibited in this division are declared to be a hazard to public health, safety and welfare, and a public nuisance.

(Ord. #490, passed 07-16-18)

**Sec. 6-173\_6-190. Reserved.**

(Ord. #490, passed 07-16-18)

**B. DISMANTLED OR INOPERABLE MOTOR VEHICLES.**

**Sec. 6-191. Parking and Storing.**

- a. No person shall permit any dismantled or partially dismantled or inoperable motor vehicle, or parts of such vehicle to remain outdoors on any premises within the corporate limits of the village for a period of more than 30 consecutive days. This section shall not apply to junk dealers duly licensed by the village, garages, service stations, auto body repair shops, or duly licensed used car sales lots openly and actively engaged in making service repairs for the public, nor to dismantled, partially dismantled or inoperable motor vehicles or parts of such vehicles, stored in a closed building.

(Ord. #490, passed 07-16-18)

**Sec. 6-192\_6-200. Reserved.**

(Ord. #490, passed 07-16-18)

**C. LITTER.**

**Sec. 6-201. Littering.**

- a. No person shall litter the village streets, alleys and other village property with material of any kind.

(Ord. #490, passed 07-16-18)

**Sec. 6-202. Junk; trash.**

- a. No person shall place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the village. For the purposes of this section, vehicles or parts of vehicles not in a condition for normal use shall be considered as junk or trash.

- b. Nothing in this section shall prohibit composting activity for personal use within residential districts in the Village.

(Ord. #490, passed 07-16-18)

**Sec. 6-203\_6-215. Reserved.**

(Ord. #490, passed 07-16-18)

**D. NOISE.**

Sec. 6-216. Purpose.

Sec. 6-217. Definitions.

Sec. 6-218. General Prohibitions.

Sec. 6-219. Exemptions and Exclusions.

Sec. 6-220.\_6-230. Reserved.

**Sec. 6-216. Purpose.**

- a. It is the purpose of this section to protect, preserve and promote the public health, safety, welfare, and convenience of the citizens of the Village of Elk Rapids by establishing these regulations to reduce, control and prevent unreasonable noise.

(Ord. #490, passed 07-16-18)

**Sec. 6-217. Definitions.**

- a. For the purpose of this section, words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- Boundary Line: (1) The imaginary line, including its vertical extension, separating one parcel of property from another; or, (2) The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building.
  - Community Event: An event that has free admission and at which everyone is welcome.
  - Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.
  - Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
  - Plainly Audible: Any sound that can be detected by a person using only his or her usual hearing faculties unaided by any uncommon amplification devices.
  - Property Boundary Line: Refers to the property line of the property from which the sound emanates.
  - Unreasonable Noise: Any excessive or unusually loud sound which either disturbs, injures or endangers the peace or health of a person within the Village of Elk Rapids, or endangers the health, safety or welfare of the community. Elements to be



## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

considered in determining whether noise is excessive in a given situation include, but are not limited to the following:

- Intensity of the noise.
- Whether the noise is usual or unusual.
- Whether the origin of the noise is natural or unnatural.
- The intensity of the ambient noise.
- The proximity of the noise to sleeping facilities.
- The time of day or night the noise occurs.
- The duration of the noise.
- Whether the noise is continuous or intermittent.
- Whether alternate methods are available to achieve the objectives of the sound producing activity.

(Ord. #490, passed 07-16-18)

### **Sec. 6-218. General Prohibitions.**

- a. No person or persons shall make, cause to be made, or assist in making any excessive or unreasonably loud noise or disturbance that disturbs, injures or endangers the peace or health of others within the immediate vicinity of the noise or disturbance.
- b. Without limitations, the commission of one or more of the following acts shall be deemed a violation of this Ordinance and shall be considered a noise disturbance and public nuisance:
  1. Vocal Disturbances: Yelling, shouting, hawking of goods, whistling, singing or making any other loud vocal noise disturbance, including parties and other social events between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any school, place of worship or office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
  2. Radio, Television, Musical Instruments, etc. The use or operation of any radio or television set, musical instrument, loud speaker, sound amplifier, or other device, between the hours of 11:00 p.m. and 7:00 a.m., at such a volume that it disturbs, injures or endangers the peace or health of neighbors. Sound amplifiers shall be prohibited within 100 yards of a hospital, school, church or courthouse.
  3. Construction Activity: The use or operation of construction equipment and/or machinery, or the creation of loud, excessive noise in connection with customary construction activities, between sunset and 7:00 a.m., and on Sundays or legal

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

holidays. This ordinance shall not apply to emergency work performed during emergency situations on behalf of, or when authorized by the Village.

4. Animal Noises: Frequent or continuous noise caused from the keeping of any animal or bird that disturbs, injures or endangers the peace or health of neighbors.
  5. Engine, Blower, etc. Exhaust: The discharge into the open air of any vehicle engine exhaust or air from any noise creating blower or power fan that does not meet state and federal operating standards and that are not operated in a manner consistent with state and federal law.
  6. Horns and Signal Devices: The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, for unnecessary and unreasonable periods of time, except when associated with an emergency situation.
- (Ord. #490, passed 07-16-18)

### **Sec. 6-219. Exemptions and Exclusions.**

- a. Sounds from the following sources shall be exempt from the prohibitions specified in Sec. 6-218, above:
    1. Any person or organization that has obtained approval and authorization by the Village Council.
    2. Any vehicle and equipment owned by and operated by any governmental unit or a utility in the performance of its duties.
    3. Noise associated with routine snow removal activities.
    4. All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work, such as, police, fire and rescue vehicle sirens.
    5. Noise associated with a bona fide response to an emergency situation that poses a threat to a person's health, safety or welfare.
    6. Community events between the hours of 7:00 a.m. and 11:00 p.m.
    7. Musical, recreational and athletic events conducted by the Elk Rapids Public Schools.
    8. Equipment for maintenance of lawns and grounds.
    9. Sound created by bells, carillons, chimes or services held at established religious sites.
- (Ord. #490, passed 07-16-18)

### **Sec. 6-220. 6-230. Reserved.**

(Ord. #490, passed 07-16-18)

**E. FIREWORKS.**

Sec. 6-231. Purpose.

Sec. 6-232. Definitions.

Sec. 6-233. In General.

Sec. 6-234\_6-240. Reserved

**Sec. 6-231. Purpose.**

- a. The purpose of this division is to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451—28.471.

(Ord. #490, passed 07-16-18)

**Sec. 6-232. Definitions.**

- a. Consumer fireworks: Fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission, promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.
- b. Fireworks: Any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.
- c. Low-impact fireworks: Ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

(Ord. #490, passed 07-16-18)

**Sec. 6-233. In General.**

- a. No person shall fire, discharge, display or possess any fireworks except of the type and under the conditions permitted under the Michigan Fireworks Safety Act, MCL 29.451—28.471, as may be amended.
- b. No person shall bring into a park, have in their possession, set off, or otherwise cause to explode in a park, public land, or public right-of-way, any firecrackers, torpedoes, rockets, or other fireworks or explosives, or discharge or throw them into any park, public land, or public right-of-way, from land adjacent thereto, provided only that a special permit may be granted by the village council and the fire chief, which should include restrictions as to time and location.

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

c. The ignition, discharge, or use of consumer fireworks shall be prohibited between the hours of 1:00 a.m. and 8:00 a.m., and shall be permitted only on the day preceding, the day of, or the day after a national holiday, those being the following:

- New Years' Day, January 1
- Birthday of Martin Luther King Jr., the third Monday in January
- Washington's Birthday, the third Monday in February
- Memorial Day, the last Monday in May
- Independence Day, July 4
- Labor Day, the first Monday in September
- Columbus Day, the second Monday in October
- Veteran's Day, November 11
- Thanksgiving Day, the fourth Thursday in November
- Christmas Day, December 25

(Ord. #490, passed 07-16-18)

**Sec. 6-234\_6-240. Reserved.**

(Ord. #490, passed 07-16-18)

**F. SMOKING.**

**Sec. 6-241. Prohibited in specific areas.**

- a. In accordance with state statute, Smoking in public places, that being MCL 333.12601 et seq., it shall be unlawful to smoke or burn tobacco in any portion of a village-owned building open to the public or used by village employees.

(Ord. #490, passed 07-16-18)

**Sec. 6-242\_6-250. Reserved.**

(Ord. #490, passed 07-16-18)

**ARTICLE IV. MUNICIPAL CIVIL INFRACTIONS**

DIVISION 1. IN GENERAL

DIVISION 2. MUNICIPAL ORDINANCE CIVIL INFRACTION VIOLATIONS

**DIVISION 1. IN GENERAL**

Sec. 6-251. Definitions.

Sec. 6-252. Designation of authorized village officials.

Sec. 6-253. Civil infraction action; commencement.

Sec. 6-254. Civil infraction citations.

Sec. 6-255\_6-270. Reserved.

**Sec. 6-251. Definitions.**

- a. Words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.
- Act: Public Act No. 236 of 1961 (MCL 600.101 et seq.), as amended.
  - Authorized Village Official: A police officer, the Zoning Administrator or other personnel of the village authorized by the council to enforce this Code or any ordinance to issue Municipal Civil Infraction Citations or Municipal Civil Infraction Violation Notices.
  - Bureau: The Village of Elk Rapids Municipal Ordinance Violation Bureau, as established by this Article.
  - Civil Infraction Action: A civil action in which the defendant is alleged to be responsible for a Municipal Civil Infraction.
  - Civil Infraction Citation: A written complaint or notice prepared by an authorized village official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
  - Civil Infraction Violation Notice: A written notice prepared by an Authorized Village Official, directing a person to appear at the village Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the village, as authorized under sections 8396 and 8707(6) of the Act (MCL 600.8396, 600.8707(6)).  
(Ord. #490, passed 07-16-18)

**Sec. 6-252. Designation of authorized village officials.**

- a. The following personnel of the village have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this Article:
- Police officers;
  - The Planning and Zoning Administrator; or
  - Other village official as may be authorized by the Village Manager.

(Ord. #490, passed 07-16-18)

**Sec. 6-253. Municipal civil infraction action; commencement.**

- a. A municipal civil infraction action may be commenced upon the issuance by an authorized village official of:
1. A Municipal Civil Infraction Citation directing the alleged violator to appear in court; or
  2. A Municipal Civil Infraction Violation Notice directing the alleged violator to appear at the village Municipal Ordinance Violations Bureau.

(Ord. #490, passed 07-16-18)

**Sec. 6-254. Municipal civil infraction citations.**

- a. Issuance and service. Municipal Civil Infraction Citations issued and served by authorized village officials shall be in accordance with the Michigan Compiled Laws being MCL 600.8705, 600.8707, and 600.8709 as follows:
1. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
  2. The place for appearance specified in a citation shall be the district court.
  3. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the village and issued to the alleged violator as provided by section 8705 of the Act (MCL 600.8705).
  4. A citation for a municipal civil infraction signed by an authorized village official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

5. An authorized village official who witnesses a person commit a municipal civil infraction may prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
  6. An authorized village official may issue a citation to a person if:
    - Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
    - Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction, and if the prosecuting attorney or village attorney approves in writing the issuance of the citation.
  7. A municipal civil infraction citation shall be served by an authorized village official as follows:
    - Except as provided by subsection (a)(7)b of this section, an authorized village official shall personally serve a copy of the citation upon the alleged violator.
    - If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.
- b. Contents.
1. A municipal ordinance citation shall contain the name and address of the alleged violator and, in the case of a minor, the name and address of the parent or guardian of such minor; the municipal civil infraction alleged; the place where the alleged violator shall appear in court; the telephone number of the court; and the time at or by which the appearance shall be made.
  2. Further, the citation shall inform the alleged violator that he may do one of the following:
    - i. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.



CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

- ii. Admit responsibility for the municipal civil infraction with explanation by mail by the time specified for appearance or, in person, or by representation.
  - iii. Deny responsibility for the municipal civil infraction by doing either of the following:
    - Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the village.
    - Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
3. The citation shall also inform the alleged violator of all of the following:
- i. That if the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
  - ii. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
  - iii. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the village.
  - iv. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
  - v. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
4. The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. #490, passed 07-16-18)

**Sec. 6-255\_6-270. Reserved.**

(Ord. #490, passed 07-16-18)

**DIVISION 2. MUNICIPAL ORDINANCE VIOLATIONS.**

- Sec. 6-271. Municipal Ordinance Violations Bureau established.
- Sec. 6-272. Location; supervision; employees; rules and regulations.
- Sec. 6-273. Bureau limited to accepting admissions of responsibility.
- Sec. 6-274. Disposition of violations
- Sec. 6-275. Civil infraction violation notices.
- Sec. 6-276. Appearance; payment of fines and costs.
- Sec. 6-277. Procedure where admission of responsibility not made or fine not paid.
- Sec. 6-278. Schedule of civil fines established.
- Sec. 6-279. Parking violatons.
- Sec. 6-280. Disposition of vehicle impoundment.
- Sec. 6-281. Parking violatons. Impoundment of vehicles for failure to pay civil infraction or parking violation notices issued under this section.
- Sec. 6-282. Immobilization of vehicles for failure to pay civil infraction or parking violation notices issued under this section.
- Sec. 6-283. Release of vehicle impounded or immobilized under this section.
- Sec. 6-284. Hearings and bond maximum.
- Sec. 6-285. Unauthorized removal of vehicle.
- Sec. 6-286. Violation continues.
- Sec. 6-287. Illegally parked car, presumption of ownership.
- Sec. 6-288. Release of impounded vehicle by police department.
- Sec. 6-289. Schedule of Fines.
- Sec. 6-290\_6-310. Reserved.

**Sec. 6-271. Bureau established.**

- a. The Village of Elk Rapids hereby establishes a Municipal Ordinance Violations Bureau (Bureau), as authorized under section 8396 of the Act (MCL 600.8396), to accept admission of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.  
(Ord. #490, passed 07-16-18)

**Sec. 6-272. Location; supervision; employees; rules and regulations.**

- a. The bureau is located at the Elk Rapids Governmental Center, 315 Bridge Street, Elk Rapids, Michigan 49629 and shall be under the supervision and control of the Village

## CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

Manager. The Village Manager shall establish rules and regulations for the operation of the bureau and appoint the village staff necessary to administer the bureau.  
(Ord. #490, passed 07-16-18)

### **Sec. 6-273. Bureau limited to accepting admissions of responsibility.**

- a. The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions.
- b. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(Ord. #490, passed 07-16-18)

### **Sec. 6-274. Disposition of violations.**

- a. The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violations notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau.
- b. Nothing in this Division shall prevent or restrict the village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction.
- c. No person shall be required to dispose of a municipal civil infraction violation at the bureau, but may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(Ord. #490, passed 07-16-18)

### **Sec. 6-275. Municipal civil infraction violation notices.**

- a. Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations, as provided in the Michigan Compiled Laws, being, MCL 600.8707(6).
- b. In addition to any other information required by this Code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(Ord. #490, passed 07-16-18)

**Sec. 6-276. Appearance; payment of fines and costs.**

- a. An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(Ord. #490, passed 07-16-18)

**Sec. 6-277. Procedure where admission of responsibility not made or fine not paid.**

- a. If an authorized village official issues and serves a municipal civil infraction violation notice, and if an admission of responsibility is not made and the fine and costs, prescribed by the schedule of civil fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with district court, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address.
- b. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the Act (MCL 600.8705, 600.8709), but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice, and shall fairly inform the alleged violator how to respond to the citation.

(Ord. #490, passed 07-16-18)

**Sec. 6-278. Schedule of civil fines established.**

- a. The village hereby establishes a general schedule of civil fines that may be amended from time to time by resolution of the Village Council, payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices.
- b. If the ordinance that was violated has within its terms a specific schedule of fines, the schedule of fines set forth in the specific ordinance shall control over this general schedule of fines.
- c. All fines not paid within the time indicated on the violation notice shall be doubled and subject to a municipal infraction citation with a penalty, together with court cost and expenses as may be permitted by law.

(Ord. #490, passed 07-16-18)

**Sec. 6-279. Parking Violations.**

- a. A vehicle parked in violation of this Section is hereby declared to be a nuisance which may be abated by any acting or permanent Police Officer or by any other authorized Village employee in either of the following ways:
  1. By placing a parking violation citation on said vehicle which shall plainly state the nature of the violation, and
  2. By placing a parking violation citation on such vehicle as in the preceding paragraph, and by removing or causing said vehicle to be removed to a vehicle impound facility.
- b. Whenever a parking violation citation is placed on a vehicle, a copy of such citation shall be provided to the Civil Infraction Violations Bureau where a file record shall be made and kept of said violation.
- c. Any parking violation listed in this article of the Code of Ordinances, Village of Elk Rapids shall be a civil infraction, unless otherwise indicated.  
(Ord. #490, passed 07-16-18)

**Sec. 6-280. Disposition of vehicle impoundment.**

- a. The owner or operator of any vehicle upon which a parking violation citation has been placed and which has been removed to the vehicle pound may have said vehicle released by paying all violation charges at the Civil Infraction Violations Bureau which are due against said vehicle and paying all costs of impoundment to the towing contractor of the Village of Elk Rapids. Any lienholder may claim an impounded vehicle by entering into an indemnity agreement with the Village of Elk Rapids to save harmless the Village from any and all liability the Village may incur at the hands of the registered owner for releasing said vehicle to said lienholder, and upon all charges due against said vehicle. The aforementioned charges shall include, but not be limited to, all parking violation penalties presently outstanding against the vehicle, and all levies and costs of towing and storage and other impoundment expenses. All costs of impoundment shall be paid to the towing contractor of the Village of Elk Rapids.
- b. Whenever a parking violation tag has been placed on a vehicle and where the necessary steps have been taken to have said vehicle removed but is released to the owner or operator thereof prior to such actual removal, the owner or operator thereof shall pay to the towing contractor of the Village all costs and expenses by reason of the institution of those steps necessary for removal of the vehicle. The towing contractor of the Village may release the vehicle without removal as above mentioned by accepting payment of all costs and expenses to which he or she would be entitled for removal of the vehicle. The violation fine shall be paid to the Civil Infraction Violations Bureau.

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

- c. Whenever any person authorized by this Code to enforce this Article shall determine that a vehicle parking in violation of this Section shall be ticketed with a parking violation citation and removed to the vehicle pound, as provided, it shall thereafter be unlawful for any person to drive or otherwise remove said vehicle from the scene of the violation in disobedience of a direct verbal order given by such authorized person that the vehicle not be moved. A vehicle which has been impounded shall not be removed from the vehicle pound except as authorized by the Elk Rapids Police Department.
- d. Subject to the provisions of this article, parking violation penalties shall be paid within ten (10) days after the date of the violation. If not paid within said ten-day period, the penalty for such violation shall be increased as provided in Sec.4.319, below.  
(Ord. #490, passed 07-16-18)

**Sec. 6-281. Impoundment of vehicles for failure to pay civil infractions or parking violation notices issued under this section.**

- a. If a vehicle is unattended and the registered owner of the vehicle has six (6) or more unpaid and outstanding civil infraction violations or parking violation notices, in any combination, all of which have been issued for a violation of this section, any Police Officer or other authorized Village employee may cause that vehicle to be immediately impounded. There shall be no impoundment under this Section from any private property.  
(Ord. #490, passed 07-16-18)

**Sec. 6-282. Immobilization of vehicles for failure to pay civil infractions or parking violation notices issued under this section.**

- a. If a vehicle is unattended and the registered owner of the vehicle has six (6) or more unpaid and outstanding civil infraction citations or parking violation notices, in any combination, all of which have been issued for a violation of this section, any Police Officer or other authorized Village employee may, in lieu of impoundment of the vehicle as otherwise provided, attach or cause to be attached to said vehicle, an immobilizing device which will prevent the vehicle from being moved or driven.

If an immobilization device is attached, there shall also be attached securely to the vehicle a notice which states:

"CAUTION! THIS VEHICLE HAS BEEN MADE IMMOBILE BY A WHEEL-LOCKING DEVICE. SERIOUS DAMAGE TO THE VEHICLE WILL RESULT IF YOU ATTEMPT TO MOVE THE VEHICLE. RELEASE CAN BE OBTAINED BY:

"(1) Paying the outstanding Civil Infraction, Citations or Parking Violation Notices, together with the fee established to cover the costs of attachment and removal of the locking device, or

"(2) Posting a bond to cover the above costs and requesting a hearing.

"PAYMENT MUST BE MADE TO THE VILLAGE TREASURER DURING REGULAR BUSINESS HOURS. ARRANGEMENTS MUST BE MADE WITHIN SEVENTY-TWO (72)

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

HOURS AFTER INSTALLATION OF THE DEVICE OR THE VEHICLE WILL BE REMOVED BY IMPOUNDMENT AS A NUISANCE PURSUANT TO THIS ORDINANCE"  
(Ord. #490, passed 07-16-18)

**Sec. 6-283. Release of vehicle impounded or immobilized under this section.**

- a. The owner or operator of any vehicle which has been impounded or immobilized under Section 6.280, or 6.282., above, may obtain release of the vehicle by either of the following:
  1. By paying the total amount due on all outstanding Civil Infraction Citations and/or Parking Violation Notices and by paying the fees then being charged for towing and storage of the vehicle and the fee charged for the attachment and removal of the immobilization device; or
  2. By the posting of a bond to cover all of the costs assessed against the vehicle in (a) above and requesting a hearing.
- b. All payments under this Section shall be made to the Village Civil Infraction Violations Bureau during regular business hours.

(Ord. #490, passed 07-16-18)

**Sec. 6-284. Hearings and Bond Maximum.**

- a. The registered owner of a vehicle shall have the rights afforded by State Law to contest the Civil Infraction Citations or Parking Violation Notices through either an informal hearing before a District Court Magistrate or a formal hearing before a District Court Judge. Any bond required for release of a vehicle pursuant to Section 10.64.3 shall not exceed the sum of Five Hundred Dollars (\$500.00).

(Ord. #490, passed 07-16-18)

**Sec. 6-285. Unauthorized Removal of Vehicle.**

- a. Whenever any person, authorized by this Code to enforce this article, shall issue or have issued an order to impound or immobilize a vehicle as provided herein, it shall thereafter be unlawful for any person to drive or otherwise remove said vehicle if he or she has knowledge of its impending impoundment or immobilization. A vehicle which has been impounded or immobilized shall not be removed except as authorized by the Elk Rapids Police Department. Violation of this Section shall constitute a misdemeanor.

(Ord. #490, passed 07-16-18)

**Sec. 6-286. Violation Continues.**

- a. When a traffic violation citation is placed upon any vehicle, additional citations may be placed thereon for each continuous parking violation, or fraction thereof, that said vehicle remains in such parking space; each separate overtime parking period, or fraction thereof, shall constitute a separate and distinct violation.

(Ord. #490, passed 07-16-18)

**Sec. 6-287. Illegally Parked Car, Presumption of Ownership.**

- a. In all cases of parking violations, either the registered owner or the operator of such vehicle may be proceeded against by complaint and warrant in 86<sup>th</sup> District Court which shall be in addition to the right of impounding heretofore given, and in any such proceeding proof by verifying ownership of the vehicle with the Secretary of State that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall be accepted by the court as establishing probable cause for the issuance of a warrant for the arrest of the registered owner, and creates in evidence a presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(Ord. #490, passed 07-16-18)

**Sec. 6-288. Release of Impounded Vehicle by Police Department.**

- a. Any owner or operator of an impounded vehicle who shall have denied committing the offense shall have the vehicle returned by requesting the vehicle at the Elk Rapids Police Department and posting bond or security sufficient to pay such towing and impound charges should the offense be found to have been committed. Such bond or security shall be returned should the offense be found to have not been committed.

(Ord. #490, passed 07-16-18)

**Sec. 6-289. Schedule of fines.**

- a. The below indicated Schedule of Fines is from date of issuance and includes Saturdays, Sundays, and holidays. Fine amounts are established by resolution of the Village Council which may be amended from time to time.
- b. Fine amounts not paid after 120 days may be turned over to a collection service for resolution. The owner or operator of the cited vehicle shall be responsible for all Collection Service Fees and for Court Collection Actions.



CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

**SCHEDULE OF FINES**

<b>Violation – Short Description</b>	<b>Fine, 1-10 Days</b>	<b>Fine, 11-90 Days</b>	<b>Fine, 91-120 Days</b>
No Parking Zone	\$30	\$60	\$90
Un-Authorized Parking, Posted	\$30	\$60	\$90
Obstructing Traffic Lane	\$30	\$60	\$90
Disabled Parking, On-Street or Off-Street	\$100	\$200	\$300
To Near Intersection	\$20	\$40	\$60
Blocking Driveway	\$20	\$40	\$60
Seasonal Parking	\$20	\$40	\$60
Not Within Parking Lines	\$20	\$40	\$60
No Parking Posted Hours	\$20	\$40	\$60
No Parking, Off-Street	\$30	\$60	\$90
Off-Street Rule Violation	\$20	\$40	\$60
Reserved Parking Zone	\$20	\$40	\$60
Double Parked	\$30	\$60	\$90
Over 1 ft. from Curb	\$20	\$40	\$60
Within Intersection	\$30	\$60	\$90
Angle Parked, Over 1 ft. from Curb	\$20	\$40	\$60
Impair traffic view within 30 ft. of sign or signal	\$20	\$40	\$60
Obstructing traffic- alongside roadway excavation or obstruction	\$20	\$40	\$60
Non-Emergency repairs in roadway	\$30	\$60	\$90
Safety Zone	\$20	\$40	\$60
On Sidewalk	\$20	\$40	\$60
On Crosswalk	\$30	\$60	\$90
Un-attended Vehicle	\$20	\$40	\$60
Brakes not set	\$20	\$40	\$60
Wheels not set	\$20	\$40	\$60
No Reflectors	\$20	\$40	\$60
Within 30 ft. of Signal	\$20	\$40	\$60

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

**SCHEDULE OF FINES**

<b>Violation – Short Description</b>	<b>Fine, 1-10 Days</b>	<b>Fine, 11-90 Days</b>	<b>Fine, 91-120 Days</b>
Parked over 48 hours	\$20	\$40	\$60
Left to Curb	\$20	\$40	\$60
Alley Parking	\$20	\$40	\$60
On Parkway	\$20	\$40	\$60
Within 3 ft. of Driveway	\$20	\$40	\$60
Restricted Parking – not moved more than 50 ft. within limited time	\$20	\$40	\$60
Village Reserved Zone	\$20	\$40	\$60
Loading Zone	\$20	\$40	\$60
Commercial – Blocking Traffic	\$30	\$60	\$90
Commercial – Parked more than 2 hours	\$20	\$40	\$60
Commercial – Angle loading more than 1 hour	\$20	\$40	\$60
Un-attached Trailer	\$20	\$40	\$60
Within 15 ft. of Fire Hydrant	\$20	\$40	\$60
Fire Station Zone	\$20	\$40	\$60
Blocking Fire Escape or Emergency Exit	\$20	\$40	\$60
Within Intersection	\$30	\$60	\$90
In front of theater	\$20	\$40	\$60
Snow Routes	\$30	\$60	\$90
Temporary No Parking	\$30	\$60	\$90
No Parking Posted Hours – On-Street	\$30	\$60	\$90
Displaying Advertising or Vehicle for Sale	\$20	\$40	\$60

(Ord. #490, passed 07-16-18)

**Sec. 6-290\_6-310. Reserved.**

(Ord. #490, passed 07-16-18)