

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

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ARTICLE I – IN GENERAL

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

ARTICLE I – IN GENERAL

- Sec. 1-1. Designation and citation of Code.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Section headings.
- Sec. 1-4. History notes.
- Sec. 1-5. References and editor's notes.
- Sec. 1-6. Provisions considered as continuation of existing ordinances.
- Sec. 1-7. Certain provisions saved from repeal.
- Sec. 1-8. Effect of repeal of ordinances.
- Sec. 1-9. Severability.
- Sec. 1-10. Publication and distribution of Code.
- Sec. 1-11. Amendment procedure.
- Sec. 1-12. *Altering/Supplementation of Code.*
- Sec. 1-13. Responsibility.
- Sec. 1-14. *Violation of this Code of Ordinances.*
- Sec. 1-15_1-25 Reserved

Sec. 1-1. Designation and citation of Code.

- a. The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Village of Elk Rapids, Michigan," and may also be cited as "Code" or "this Code".

(Ord. #463 passed 1-4-16)

Sec. 1-2. Definitions and rules of construction.

- a. It is the legislative intent of the Village Council, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the village.
- b. Any word or term not defined in this Code shall be considered to be defined in accordance with its common or standard definition.

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

- c. In the construction of this Code and any amendment thereto, the following rules and definitions shall be observed and shall apply to all Chapters of this Code unless the context clearly indicates otherwise:
- Charter. Public Act No. 3 of 1895, as amended.
 - Code. The Code of Ordinances, Village of Elk Rapids, Michigan.
 - Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code. When expressed in days, it shall be computed by excluding the first day and including the last, except that if the last day is Sunday or a legal holiday it shall be excluded. When the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded if the time period expires on a Sunday or legal holiday.
 - County and this county. The County of Antrim, State of Michigan.
 - Gender. A term importing the masculine gender only shall extend and be applied to females, firms, partnerships, corporations and to all neuter objects, as well as to males.
 - Municipal civil infraction. An act or omission that is prohibited by this Code or any ordinance of the village, but which is not a crime under this Code or another ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Public Act No. 236 of 1961, (MCL 600.8701 et seq.). A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.
 - Number. A term importing the singular number only, but may extend and be applied to several persons and things as well as to one person and thing.
 - Oath, affirmation, sworn, affirmed. The term "oath" shall be construed to include the term "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases, the term "sworn" shall be construed to include the term "affirmed."

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

- Officer, department, board, commission or other agency. Whenever any officer, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Village of Elk Rapids, Michigan." Whenever by the provisions of this Code any officer of the village is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate.
- Person. The term "person" shall include any individual, co-partnership, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- Public Acts. All references to "Public Acts" are references to Michigan Public Acts. Any reference to a state law whether by public act number or by short title, is a reference to such act as amended.
- Public place. Any place, indoor or outdoor area, whether publicly or privately owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose.
- Repeat offense. A second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any six-month period (unless some other period is specifically provided by this Code or any ordinance, and for which the person admits responsibility or is determined to be responsible.)
- Sidewalk. The developed portion of a street between the curb lines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.
- State and this state. The State of Michigan.
- Street, alley, and highway. The entire width, subject to an easement for public right-of-way, or owned in fee by the village, county or state, of every way or place, of whatever nature, whenever any park is open to the use of the public, as a matter of right for purposes of public travel. The term "alley" shall mean such way or place providing a secondary means of ingress and egress from a property.
- Village. The Village of Elk Rapids, Michigan.
- Village Council and Council. The Village Council of the Village of Elk Rapids.

(Ord. #463 passed 1-4-16)

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

Sec. 1-3. Section headings.

- a. The headings sections of this Code are intended to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections. No provision of this Code shall be held invalid by reason of deficiency in any such heading or title to any chapter, article or division.

(Ord. #463 passed 1-4-16)

Sec. 1-4. History notes.

- a. The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

(Ord. #463 passed 1-4-16)

Sec. 1-5. References and editor's notes.

- a. The references and editor's notes following certain sections of the Code are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

(Ord. #463 passed 1-4-16)

Sec. 1-6. Provisions considered as continuation of existing ordinances.

- a. The provisions appearing in this Code so far as they are the same as those of the Code of the Village of Elk Rapids, 1985, and of ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not new enactments.

(Ord. #463 passed 1-4-16)

Sec. 1-7. Certain provisions saved from repeal.

- a. Nothing in this Code or the ordinance adopting this Code, when not inconsistent with this Code, shall affect any ordinance:

1. Affecting the boundaries of the village;
2. Relating to any specific local improvement;
3. Authorizing, directing or ratifying any purchase or sale;
4. Approving or accepting any subdivision or plat;

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

5. Authorizing or directing the borrowing of money or the issuance of any bonds or other evidence of indebtedness;
 6. Authorizing or directing the making of any investment;
 7. Establishing the salaries for village officers and employees;
 8. Making or otherwise affecting any appropriations;
 9. Levying or otherwise affecting any taxes, not inconsistent herewith;
 10. Relating to franchises and special privileges;
 11. Any ordinances prescribing traffic regulations, including through streets, speed limits, one-way traffic, limitations on load of vehicles or loading zones;
 12. Any ordinance regarding special districts;
 13. Pertaining to zoning or rezoning;
 14. Regulations pertaining to personnel;
 15. Any temporary or special ordinances; and
 16. Any administrative ordinance.
- b. All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the office of the Village Clerk. No offense committed or penalty incurred or any right established prior to the effective date of this Code shall be affected.
- (Ord. #463 passed 1-4-16)

Sec. 1-8. Effect of repeal of ordinances.

- a. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
 - b. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.
- (Ord. #463 passed 1-4-16)

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

Sec. 1-9. Severability.

- a. Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections of the Code, it being the intent of the Village Council that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

(Ord. #463 passed 1-4-16)

Sec. 1-10. Publication and distribution of Code.

- a. Copies of this Code shall be published and shall be available for public inspection during regular office hours, or on the Village web site.

(Ord. #463 passed 1-4-16)

Sec. 1-11. Amendment procedure.

- a. This Code shall be amended by ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:
 - 1. Amendments to any of the provisions of this Code shall be made by specific reference to the section number of this Code. The new provisions shall then be set out in full as desired.
 - 2. Amendments to any provision of this Code shall be published in a newspaper of local circulation and on the Village web site.

(Ord. #463 passed 1-4-16)

Sec. 1-12. Altering/Supplementation of Code.

- a. Except as noted below, it shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions of pages, or to alter or tamper with such Code in any manner whatsoever which will cause the Code to be misrepresented thereby.
- b. The person, agency or organization authorized to prepare a supplement to this Code may make the following formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so, to embody them into a unified Code:
 - 1. Organize the ordinance material into appropriate subdivisions;

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

2. Provide appropriate headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such headings and titles;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
4. Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Ord. #463 passed 1-4-16)

Sec. 1-13. Responsibility.

- a. Whenever any act is prohibited by this Code, by an amendment of such Code, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

(Ord. #463 passed 1-4-16)

Sec. 1-14. Violation of this Code of Ordinances.

- a. Except as otherwise provided herein, violation of this Code of Ordinances shall be deemed a Municipal Civil Infraction subject to payment of a civil fine in the amount established by resolution of the Village Council, that may be amended from time to time, and other sanctions as provided by law. Increased civil fines may be imposed for repeated violations of any requirement or provision of this Code. (See Chapter 5, Municipal Civil Infractions.)
- b. The penalty for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Code of any Ordinances, plus any costs, damages, expenses and other sanctions, as authorized under by law.
 1. Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code or any ordinance, the civil fine for a violation shall be not less than \$50.00, plus costs and other sanctions, for each infraction.
 2. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Code or any ordinance. Unless otherwise specifically provided by this Code or any ordinance for a particular municipal civil infraction violation, the increased fine of a repeat offense shall be as follows:

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

CHAPTER 1: GENERAL PROVISIONS

- The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.
 - The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500.00, plus costs.
- c. A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any ordinance; and any omission or failure to act where the act is required by this Code or any ordinance.
- d. Except as otherwise provided in this Code, each three-day period on which any violation of this Code or any ordinance continues, constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- e. In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code or any village ordinance.

(Ord. #463 passed 1-4-16)

Sec, 1-15_1-25 Reserved

(Ord. #463 passed 1-4-16)