

## PART I

### GENERAL ORDINANCES

#### Chapter 1

#### GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, Egelston Township, Michigan" and may be so cited. Such ordinances may also be cited as the "Egelston Township Code."

**State Law References:** Authority to codify ordinances, MCL 41.186.

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

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

*Generally.* When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the township board may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

*Code.* The term "Code" means the Code of Ordinances, Egelston Township, Michigan, as designated in section 1-1.

*Computation of time.* In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

*Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable if the

context so requires:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

*County.* The term "county" means Muskegon County, Michigan.

*Delegation of authority.* A provision that authorizes or requires a township officer or township employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

*Gender.* Words of one gender include all other genders.

*Includes, including.* The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

*Joint authority.* A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

*May.* The term "may" is to be construed as being permissive and not mandatory.

*May not.* The term "may not" states a prohibition.

*Month.* The term "month" means a calendar month.

*Number.* The singular includes the plural and the plural includes the singular.

*Oath, affirmation, sworn, affirmed.* The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the term "sworn" includes the term "affirmed."

*Officers, departments, etc.* References to officers, departments, boards, commissions or employees are to township officers, township departments, township boards, township commissions and township employees.

*Owner.* The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person who appears on the assessment roll for the purpose of giving notice and billing.

*Person.* The word "person" means any individual, partnership, corporation, limited liability company, association, club, joint venture, estate, trust, governmental unit, and any other group or combination acting as a

unit, and the individuals constituting such group or unit.

*Personal property.* The term "personal property" means any property other than real property.

*Premises.* The term "premises," as applied to real property, includes land and structures.

*Property.* The term "property" means real and personal property.

*Public acts.* References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 246 of 1945 is a reference to Act No. 246 of the Public Acts of Michigan of 1945.) Any reference to a public act, whether by act number or by short title is a reference to such act as amended.

*Real property, real estate, land, lands.* The term "real property" includes land, tenements and hereditaments.

*Shall.* The term "shall" is to be construed as being mandatory.

*Sidewalk.* The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

*Signature, subscription.* The term "signature" or "subscription" includes a mark when the person cannot write.

*State.* The term "state" means the State of Michigan.

*Street, highway or alley.* The term "street" or "highway" means the entire width subject to an easement for a public right-of-way or owned in fee by the township, county or state, or every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel. The term "alley" means any such way or place providing a secondary means of ingress and egress from property.

*Swear.* The term "swear" includes the term "affirm."

*Tenses.* The present tense includes the past and future tenses. The future tense includes the present tense.

*Township.* The term "township" means Egelston Township, Michigan.

*Township board.* The term "township board" means the township board of Egelston Township, Michigan.

*Week.* The term "week" means seven consecutive days.

*Written.* The term "written" includes any representation of words, letters, symbols or figures.

*Year.* The term "year" means 12 consecutive months.

**State Law References:** Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

**Sec. 1-3. Catchlines of sections; history notes; references.**

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Editor's notes, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

**State Law References:** Catchlines in state statutes, MCL 8.4b.

**Sec. 1-4. Effect of repeal of ordinances.**

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive any repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

**State Law References:** Effect of repeal of state statutes, MCL 8.4 et seq.

**Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) \_\_\_\_\_ of the Egelston Township Code is hereby amended to read as follows: . . . ."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) \_\_\_\_\_ of the Egelston Township Code is hereby created to read as follows: . . . ."

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

**State Law References:** Ordinance adoption procedures, MCL 41.181 et seq.

**Sec. 1-6. Supplementation of Code.**

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the township. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

**Sec. 1-7. General penalty; continuing violations.**

- (a) In this section "violation of this Code" means any of the following:
- (1) Doing an act that is prohibited or made or declared unlawful, a municipal civil infraction, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
  - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, a municipal civil infraction, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In this section "violation of this Code" does not include the failure of a township officer or township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Nothing in this subsection applies to provisions declared to be a misdemeanor. Except as otherwise provided by law or ordinance, violations of this Code shall be a municipal civil infraction. Persons who commit municipal civil infractions are responsible for civil fines in the following amounts. The following schedule of civil fines is also payable for admissions of responsibility by persons served with municipal ordinance violation notices:

- (1) For the first violation of a particular provision: \$100.00.
- (2) For the first repeat of the offense by the same person or persons in concert within 24 months of the first offense: \$250.00.
- (3) For the repeat of the offense by the same person or persons in concert within 24 months of the first repeat offense: \$500.00.

(d) A person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed \$500.00, and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment; provided, however, that a violation of this Code is punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days.

(e) Except as otherwise provided by law or ordinance:

- (1) As to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (2) As to other violations, each violation constitutes a separate offense.

(f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

(Compiled. Ords. 1990, § 12.176)

**State Law References:** Penalty for ordinance violations, MCL 41.183 et seq.

## **Sec. 1-8. Severability.**

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable.

**State Law References:** Severability of state statutes, MCL 8.5.

**Sec. 1-9. Provisions deemed continuation of existing ordinances.**

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the township relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

**State Law References:** Similar provisions as to state statutes, MCL 8.3u.

**Sec. 1-10. Code does not affect prior offenses or rights.**

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any township ordinance on the effective date of this Code.

**Sec. 1-11. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below. Such ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code.

- (1) Annexing property into the township or describing the corporate limits.
- (2) Deannexing property or excluding property from the township.
- (3) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (4) Authorizing or approving any contract, deed, or agreement.
- (5) Making or approving any appropriation or budget.
- (6) Providing for salaries or other employee benefits not codified in this Code.
- (7) Granting any right or franchise.
- (8) Adopting or amending the comprehensive plan.
- (9) Levying or imposing any special assessment.

- (10) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
- (11) Establishing the grade of any street or sidewalk.
- (12) Dedicating, accepting or vacating any plat or subdivision.
- (13) Levying, imposing or otherwise relating to taxes.
- (14) Granting a tax exemption for specific property.
- (15) Pertaining to zoning, including, but not limited to, the basic zoning ordinance, ordinances rezoning property or amending the zoning map and ordinances promulgating zoning text amendments.
- (16) That is temporary, although general in effect.
- (17) That is special, although permanent in effect.
- (18) The purpose of which has been accomplished.