

CODIFIED ORDINANCES OF TRAVERSE CITY

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CODIFIED ORDINANCES OF TRAVERSE CITY
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CHAPTER 202

Codified Ordinances

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CROSS REFERENCES

- Ordinances and resolutions generally - see CHTR. Secs. 31 et seq.; ADM. Ch. 222
- Codification required - see CHTR. Sec. 34
- Publication of ordinances and resolutions - see CHTR. Sec. 158
- Publication of codes of municipal ordinances - see M.C.L.A. Sec. 117.5b

202.01 DESIGNATION; CITATION; HEADINGS.

- (a) This volume consists of all ordinances of a general and permanent nature of the Municipality, revised, codified, arranged, numbered and consolidated into component codes, titles, chapters and sections, and as such shall be known and designated as the Codified Ordinances of Traverse City, Michigan, 1990, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

- (a) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code." Sections may be referred to and cited by the designation "section" followed by the number, such as "Section 202.01."

202.02 AMENDMENTS AND SUPPLEMENTS; NUMBERING.

- (a) The Codified Ordinances of Traverse City may be amended or supplemented at any time and, when any amendment or supplement is adopted in such form

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as to indicate the intention of the City Commission to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed as including the Codified Ordinances of Traverse City and any and all such amendments and supplements.

- (a) All amendments and supplements enacted as a part of the Codified Ordinances shall be integrated therewith by following the form of arrangement and plan set forth in the original Codified Ordinances as follows: each Code shall be subdivided into titles and/or chapters, and each chapter shall be subdivided into sections, which shall be numbered in accordance with the decimal numbering system. The numbering of all sections, except penalty sections, shall be consecutive within each chapter commencing with the first section of Chapter 202, which shall be numbered 202.01, the first "2" signifying Code 2, and the two figures "02" before the decimal signifying the chapter within the Code, and the two figures "01" after the decimal signifying the first section in Chapter 202 of the Code. Penalty sections shall be designated "99" and shall be the last section of a chapter.

202.03 DEFINITIONS AND INTERPRETATION.

Terms used in these Codified Ordinances, unless specifically defined herein, shall have the meanings prescribed by State law. In the construction of these Codified Ordinances, or any provision thereof, the following rules and definitions shall control, except those which are inconsistent with the manifest intent of the City Commission as disclosed in a particular provision, section or chapter:

- (1) Adopting Ordinance. "Adopting Ordinance" means the ordinance of the Municipality adopting the Codified Ordinances of Traverse City, pursuant to law.
- (2) Authority. Whenever in the Codified Ordinances authority is given to an officer or an act is required to be performed, such authority may be exercised and such act may be performed, at the instance of such officer, by a deputy or subordinate, unless contrary to law or to the clear intent of any such particular provision.
- (3) Calendar-Computation of Time. The terms "month" and "year" mean the calendar month or year. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, unless the last day is a Sunday or a legal holiday, in which case it shall be excluded. If time is expressed in hours, the whole of Sunday or a legal holiday shall be excluded.
- (4) City Commission. "City Commission" means the legislative authority of the City.
- (5) Conjunctions. "And" includes "or" and "or" includes "and," if the sense so requires.
- (6) County. "County" means the County of Grand Traverse, Michigan, and/or the County of Leelanau, Michigan.

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- (7) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.
- (8) General Rule. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.
- (9) Joint Authority. Words giving authority to a board, commission, authority or to three or more officers or employees or other persons shall be construed as giving authority to a majority thereof, unless otherwise specifically provided.
- (10) Keeper and Proprietor. "Keeper" and "proprietor" mean persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.
- (11) Land and Real Estate. "Land" and "real estate" include rights and easements of an incorporeal nature.
- (12) Law. "Law" means all applicable laws of the United States of America, the State of Michigan and the City of Traverse City.
- (13) Municipality or City. "Municipality" or "City" means the City of Traverse City, Michigan.
- (14) Notice. "Notice" means notice as described in Section 202.04.
- (15) Number. Words in the plural include the singular and words in the singular include the plural number.
- (16) Oath. "Oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples about taking an oath. An affirmation shall have the same force and effect as an oath.
- (17) Ordinance. "Ordinance" means and includes any ordinance of the Municipality, including any provision of these Codified Ordinances.
- (18) Owner. "Owner," when applied to property, includes a part owner, joint owner or tenant in common of the whole or any part of such property.
- (19) Person. "Person" includes any individual, copartnership, corporation, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (20) Premises. "Premises," when used as applicable to property, extends to and includes land and buildings.
- (21) Property. "Property" includes real and personal property and any mixed and lesser estates or interests therein. "Personal property" includes every kind of property except real property; "real property" includes lands, tenements and hereditaments.
- (22) Public Acts. "Public Acts" means Acts of the State legislature of the State of Michigan.
- (23) Public Place. "Public place" means any place to or upon which the public resorts or travels, whether such place is owned or controlled by the City or any agency of the State or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied.
- (24) Publish. "Publish" means to print in a newspaper of general circulation in the Municipality the entire document or a brief summary thereof with a listing of

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- places where copies have been filed and times when they are available for inspection.
- (25) Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or the giving of such notice.
 - (26) Residence. "Residence" means an abode in which a person permanently resides.
 - (27) Shall and May. "Shall" is mandatory; "may" is permissive.
 - (28) Sidewalk. "Sidewalk" means that 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.
 - (29) State. "State" means the State of Michigan.
 - (30) Street, Highway and Alley. "Street," "highway" and "alley" mean the entire width subject to an easement for public right of way, or owned in fee by the City, County or State, of 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 word "alley" means any such way or place providing a secondary means of ingress and egress from a property.
 - (31) Tenant and Occupant. "Tenant" and "occupant," as applied to buildings or land, shall extend and be applied to any person holding a written or oral lease of, or who occupies the whole or any part of, a building or land, alone or with others.
 - (32) Tenses. The use of any verb in the present tense includes the future.
 - (33) Time. Whenever any time established in the Codified Ordinances for the taking of any action expires on a Sunday or a legal holiday, such time shall not expire on such day but shall expire on the next week day.
 - (34) Responsibility. Whenever any act is prohibited by a provision of these Codified Ordinances 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.

202.04 NOTICES.

- (a) Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which if performed by the City may be assessed against the premises under the provisions of these Codified Ordinances, shall be served:
 - (1) By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion;
 - (2) By mailing such notice by certified or registered mail to such owner at his or her last known address; or
 - (3) If the owner is unknown, by posting such notice in some conspicuous place on the premises for five days before the act or action concerning which the notice is given.
- (b) No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any City officer unless permission is given by such officer to remove such notice or placard.

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202.05 SEVERABILITY.

It is the legislative intent of the City Commission in adopting these Codified Ordinances that all provisions and sections of these Codified Ordinances be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. Should any provision or section of these Codified Ordinances be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that these Codified Ordinances 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 these Codified Ordinances, whether or not the wording of this section is set forth in the amendatory ordinance.

202.06 SECTIONS AND ORDINANCES REPEALED.

All ordinances, resolutions, rules and regulations of the Municipality, and parts of the same, in conflict with any of the provisions of these Codified Ordinances, are hereby repealed.

202.07 EXEMPTIONS FROM REPEAL.

The repeal provided for in Section 202.06 shall not affect:

- (a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the adoption of these Codified Ordinances;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the Municipality, or authorizing the issuance of any bonds of the Municipality, or any evidence of the Municipality's indebtedness, or any contract or obligation assumed by the Municipality;
- (c) The administrative ordinances and resolutions of the City Commission not in conflict or inconsistent with any provision of these Codified Ordinances;
- (d) Any right, license or franchise conferred by any ordinance or resolution of the Commission on any person;
- (e) Any ordinance or resolution establishing, naming, relocating or vacating any street or other public way;
- (f) Any ordinance or resolution or part thereof providing for the establishment of positions, for salaries or compensation;
- (g) Any prosecution, suit or other proceeding pending, or any judgment rendered, on or prior to the adoption of these Codified Ordinances;
- (h) Any ordinance or resolution levying or imposing taxes or assessments;
- (i) Any ordinance or resolution establishing or changing the boundaries of the Municipality; or
- (j) Any ordinance or resolution adopted by the Commission after the adoption of these Codified Ordinances.

202.08 VIOLATIONS OF STATE LAWS.

No person shall violate any law of the State, or any rule or regulation adopted by any duly authorized agency of the State. No enumeration of particular laws, rules or regulations in ordinances of the City shall be held to be exclusive.

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(1976 Code Sec. 1.07)

202.09 PUBLICATION OF RULES AND REGULATIONS.

All rules and regulations made by an administrative officer, subject to approval by the City Commission under these Codified Ordinances, shall be published.

202.10 ENFORCEMENT OF CODIFIED ORDINANCES.

The City Manager shall enforce the provisions of these Codified Ordinances or he or she may delegate the enforcement thereof to any City official. Whenever a section of these Codified Ordinances is alleged to have been violated, the enforcement of which section by the Code Enforcement Officer has been authorized by the City Manager by Administrative Order, the Code Enforcement Officer shall have the authority to issue and serve an appearance ticket upon the violator if he has reasonable cause to believe that the person has committed an offense. Such appearance ticket shall be in the form subscribed by law. State law reference – MCL 764.9c et seq. (Ord. 937 Passed 4-2-12).

202.11 APPLICATION OF CODIFIED ORDINANCES.

These Codified Ordinances shall apply to acts performed within the jurisdiction of the City. Acts performed outside the City shall be governed by these Codified Ordinances up to the limits prescribed by law, where the law confers power on the City to regulate such acts outside the City.

202.12 COPIES OF CODIFIED ORDINANCES.

Each copy of the Codified Ordinances distributed to an officer or employee of the City shall remain the property of the City and shall be turned over by such officer or employee, upon expiration of his or her term of office or employment with the City, to the City Clerk for reassignment.

202.99 GENERAL CODE PENALTY; COMPLICITY; CITATIONS.

- (a) Designation. Unless a violation of this Code or any ordinance of the City is specifically designated as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (b) General Penalty. Except for designated municipal civil infractions, whenever, in these Codified Ordinances, or in any technical or other code adopted by reference in these Codified Ordinances, or in any rule, regulation or order promulgated or made under authority of any provision of these Codified Ordinances, or under authority of any technical or other code adopted by reference in these Codified Ordinances, or under authority of State law, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates or fails to comply with any such provision shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisoned not more than ninety days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues, unless otherwise provided.

- (c) Civil Infraction Sanction. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under 1961 PA 236, as amended, and other applicable laws.
- (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. As used in this Section "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 6 month period (unless some other period is specifically provided by this Code or any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code or any ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
 - (A) The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.
 - (B) The fine for any repeat offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500, plus costs.
 - (3) 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) Separate Offense. Each day 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) Action for Injunction or Other Process. In addition to any remedies available at law, the City 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 City ordinance.
- (f) Surcharges; Equitable Remedies. The imposition of any penalty provided for in this section shall be in addition to any surcharge levied for a violation of or noncompliance with a provision of these Codified Ordinances, or a provision of a technical or other code adopted by reference in these Codified Ordinances, or a rule, regulation or order promulgated or made under authority of either or under authority of State law, and shall be in addition to any equitable remedy provided by a provision of these Codified Ordinances, or a provision of a technical or other code adopted by reference in these Codified Ordinances, or a rule, regulation or order promulgated or made under authority

of either, or under authority of State law, including the enforced removal of prohibited conditions.

- (g) Complicity. Every person concerned in the commission of a violation or an offense under these Codified Ordinances, whether he or she directly commits the act constituting the offense or procures, counsels, aids or abets in its commission, may be prosecuted, indicted, tried, or found responsible, and on conviction shall be fined and punished as if he or she had directly committed such offense.

- (h) Citations. A police officer who witnesses a person violating this Code of Ordinances, which violation is either a misdemeanor or a civil infraction, may stop the person, detain the person temporarily for purpose of making a record of the violation and identifying the person, and preparing and subscribing as soon as possible the written citation, which shall be a notice to appear in court for the offense. If a police officer witnesses a person violating this Code of Ordinances within the City, that police officer may pursue, stop and detain the person outside the City for the purpose of exercising the authority and performing the duties described above. (Ord. No. 400. Passed 11-21-94. d. 506. Passed 8-7-00.)