

CODIFIED ORDINANCES OF TRAVERSE CITY

PART SIX - GENERAL OFFENSES CODE

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Chapter 605 Non-Discrimination

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605.01 INTENT, PURPOSE AND CONSTRUCTION.

- (a) It is the intent of the City of Traverse City that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity.
- (b) The prohibitions against discrimination as provided for in this ordinance are intended to supplement state and federal civil rights law prohibiting discrimination in the areas of employment, public accommodations, and housing. Provided, however, this ordinance shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.
- (c) Nothing in this ordinance shall require preferential treatment of any person or group on the basis of sexual orientation or gender identity.

(Ord. 882. Passed 10-4-10)

605.02 DEFINITIONS.

As used in this chapter, the following words and phrases have the following meanings:

- (a) "Age." Chronological age.
- (b) "City Manager." The City Manager of the City of Traverse City or his or her designee.
- (c) "Contractor." A person who by contract furnishes services, materials or supplies.
"Contractor" does not include persons who are merely creditors or debtors of the City, such as those holding the City's notes or bonds or persons whose notes, bonds or stock is held by the City.
- (d) "Discriminate." To make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity, of another person.

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1. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
 - A. Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations, or housing.
 - B. Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing.
 - C. Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment.
 2. Discrimination based on actual or perceived physical or mental limitation includes discrimination because of the use by an individual of adaptive devices or aids.
- (e) "Employer." Any person employing one (1) or more persons
- (f) "Employment Agency." A person who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.
- (g) "Family Status." The state of being in a family.
- (h) "Family." Includes either of the following:
1. An individual who is pregnant; or
 2. Two or more individuals related by blood within three degrees of consanguinity, marriage, adoption, in a foster care relationship or legal custody relationship.
- (i) "Gender Identity." The gender with which one identifies regardless of that person's biological makeup.
- (j) "Housing Facility." Any dwelling unit or facility used or intended or designed to be used as the home, domicile or residence of one or more persons including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.
- (k) "Labor Organization." An organization of any kind or structure in which employees participate or are members and which exists for the purposes, in whole or part, of dealing with employers concerning the terms and conditions of employment of its participants or members, whether or not such organization is subordinate to or affiliated with a national or international labor organization.
- (l) "Marital Status." The state of being married, never married, divorced, or widowed.
- (m) "Perceived." Refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.
- (n) "Physical or Mental Disability." A determinable physical or mental characteristic resulting from disease, injury, congenital condition of birth, or functional disorder and is unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; or unrelated to one's ability to acquire, rent and maintain property; or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation "Physical or Mental Disability" does not include any condition caused by

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the current illegal use of a controlled substance or the use of alcohol liquor by an individual.

- (o) "Place of Public Accommodation." An educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, financial institution, business or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
- (p) "Religious Organization." An organization, church, group, or body of communicants that are organized not for pecuniary profit that regularly gathers for worship and religious purposes, and includes a religious-based private school that is not organized for pecuniary profit.
- (q) "Sexual Orientation." Male or female homosexuality, heterosexuality or bisexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

(Ord. 882. Passed 10-4-10.)

605.03 DISCRIMINATORY HOUSING PRACTICES.

Except as otherwise provided in this ordinance:

- (a) No person shall discriminate in leasing, selling or otherwise make available any housing facilities.
- (b) No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.
- (c) No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the City of such real property.
- (d) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion, national origin, sexual orientation, or gender identity.
- (e) No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

(Ord. 882. Passed 10-4-10.)

605.04 DISCRIMINATORY PUBLIC ACCOMMODATION PRACTICES.

- (a) Except as otherwise provided in this ordinance, no person shall discriminate in making available full and equal access to all goods, services, activities, privileges, and accommodations of any place of public accommodation.
- (b) Nothing in this ordinance permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct.
- (c) Nothing in this ordinance shall require the construction or provision of unisex, single-user restrooms, changing rooms, locker rooms, or shower facilities nor effect policies regarding the use of restroom, changing rooms, locker rooms, or shower facilities.

(Ord. 882. Passed 10-4-10.)

605.05 DISCRIMINATORY EMPLOYMENT PRACTICES.

Except as otherwise provided in this ordinance:

- (a) No employer shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.

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- (b) No labor organization shall discriminate in limiting membership, conditions of membership, or termination of membership of any person in any labor union or apprenticeship program.
- (c) No employment agency shall discriminate in the procurement or recruitment of any person for possible employment with an employer.

(Ord. 882. Passed 10-4-10.)

605.06 OTHER PROHIBITED PRACTICES.

- (a) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
- (b) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
- (c) No agent, broker, labor organization, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations. A report of the conviction of any such person for a violation of this ordinance shall be made to the applicable licensing or regulatory agency for such person or business.
- (d) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this ordinance, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- (e) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this ordinance.

(Ord. 882. Passed 10-4-10.)

605.07 NON-DISCRIMINATION BY CITY CONTRACTORS.

- (a) All contractors proposing to do business with the City of Traverse City shall satisfy the nondiscrimination administrative policy adopted by the City Manager in accordance with the guidelines of this section. All contractors shall receive approval from the City Manager prior to entering into a contract with the City, unless specifically exempted by administrative policy.
- (b) A contractor shall, as a condition of being deemed a responsible bidder, at the time of its submission to the City in responding to an invitation for bids or request for proposals, certify in writing that it is in compliance with the provisions of this ordinance.
- (c) All City contracts shall provide further that breach of the obligations not to discriminate shall be a material breach of the contract.
- (d) In addition, the contractor shall be liable for any costs or expenses incurred by the City in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract.

(Ord. 882. Passed 10-4-10.)

605.08 DISCRIMINATORY EFFECTS.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age, height, weight, family status, sexual orientation, marital status, physical or

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mental disability, or gender identify, for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a bona fide business necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons but shall require a demonstration that the policy or requirement is reasonably necessary to the normal operation of the person's business. (Ord. 882. Passed 10-4-10.)

605.09 EXEMPTIONS.

Notwithstanding anything contained in this ordinance, the following practices shall not be violations of this ordinance:

- (a) For a religious organization to restrict the occupancy of any of its housing facilities or accommodations which are operated as a direct part of religious activities to persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, housing facilities, and homeless shelters or dormitories that are operated as a direct part of its religious activities to persons who are members of or who conform to the moral tenets of that religious organization.
- (b) Standards established for the construction, repair, maintenance, improvement, occupancy, lease or sale of one-family and two-family dwellings.
- (c) For the owner or operator of a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of ones sex, to restrict occupancy and use on the basis of sex.
- (d) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, persons over fifty-five (55) years of age or disabled persons.
- (e) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment consistent with applicable state and federal law.
- (f) To discriminate based on a person's age when such discrimination is required by state, federal, or local law.
- (g) To refuse to enter a contract with an unemancipated minor.
- (h) To refuse to admit to a place of public accommodation serving alcoholic beverages to a person under the legal age for purchasing alcoholic beverages.
- (i) To refuse to admit to a place persons under eighteen (18) years of age to a business providing entertainment or selling literature that the operator of said business deems unsuitable for minors.
- (j) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- (k) To provide discounts on products or service to students, or on the basis of age.
- (l) To discriminate in any arrangement for the shared ownership, lease or residency of a dwelling unit.
- (m) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly-adopted institutional policies that conform to federal and state laws and regulations.

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- (n) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age, sex, height, or weight consistent with applicable federal and state law.
- (o) To restrict membership in a private membership organization that is not open to the general public except to the extent that the private membership organization permits members to invite guests on the premises are not exempted as it concerns a member's guest.
- (p) To the employment of an individual by one's family.
- (q) To the use of marital status or family status limitations in a health or pension plan consistent with applicable federal and state laws and regulations.
- (r) To the rental of housing facilities in a building which contains dwelling units for not more than two families living independently of each other if the owner of the building or a member of the owner's family resides in one of the dwelling units, or to the rental of a room or rooms in a single-family dwelling by an individual if the lessor or a member of the lessor's family resides in the dwelling.

(Ord. 882. Passed 10-4-10.)

605.10 INFORMATION AND INVESTIGATION.

- (a) Any person claiming a violation of this ordinance shall file a signed, written complaint with the City Manager or his or her designee setting forth the details, including the names, dates, witnesses and other factual matters relevant to the claim within 180 days of the incident forming the basis of the complaint.
- (b) No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this ordinance.
- (c) In the course of the investigation, the City Manager or his or her designee may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this ordinance. If said person does not comply with such request, the City Attorney may apply to the Grand Traverse County Circuit Court for an order requiring production of said materials.
- (d) Within thirty (30) days of a written complaint being filed, the City Manager or his or her designee shall undertake an investigation of any complaint alleging a violation of this chapter not currently recognized or proscribed by Michigan or federal anti-discrimination statutes, and cause all other complaints to be referred to an appropriate state or federal agency for review. After the completion of an investigation, the City Manager or his or her designee shall give written notice of the results of the investigation to the person who filed the complaint and the person accused of the violation. If the investigation establishes that a violation of this ordinance occurred, the City Manager shall either refer the matter to Conflict Resolution Services or a similar mediation service who will attempt to resolve the matter by mediating a conciliation agreement or refer the complaint to the City Attorney for prosecution in a court of competent jurisdiction.

(Ord. 882. Passed 10-4-10.)

605.11 CONCILIATION AGREEMENTS.

A conciliation agreement may include agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. Violations of such agreements shall be a violation of this ordinance.

(Ord. 882. Passed 10-4-10.)

605.12 INJUNCTIONS.

The City Attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this ordinance, to reverse the effects of such discrimination or to enforce a conciliation agreement.
(Ord. 882. Passed 10-4-10.)

605.13 PROSECUTION.

(a) At the discretion of the City Attorney, prosecution for violation of this ordinance may be initiated by complaint of the affected person on the basis of a violation of a conciliation agreement or by the City Manager on the basis of an investigation undertaken by the City Manager.

(b) Violation of this ordinance shall be prosecuted by the City Attorney as a municipal civil infraction pursuant to the provisions of the Revised Judicature Act of 1961, MCL 600.101, et seq.
(Ord. 882. Passed 10-4-10.)

605.14 PENALTIES.

(a) A violation of any provision of this ordinance is a municipal civil infraction punishable by a fine of not more than \$500.00, plus all costs of the action. The court may issue and enforce any judgment, writ, or order necessary to enforce this ordinance. This may include reinstatement, payment of lost wages, hiring and promotion, sale, exchange, lease or sublease of real property, admission to a place of public accommodation, and other relief deemed appropriate.

(b) Nothing contained in this ordinance shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any person for the prevention or correction of discrimination.
(Ord. 882. Passed 10-4-10.)

605.15 REPEALER.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.
(Ord. 882. Passed 10-4-10.)

605.16 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.
(Ord. 882. Passed 10-4-10.)

Chapter 608

Alcoholic Beverages and Tobacco Products

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|--------|---|--------|---|
| 608.01 | Open house parties. | 608.05 | Possession or consumption of open alcohol on City-owned property. |
| 608.02 | Sales to minors. | 608.06 | Restricting smoking in Designated city parks. |
| 608.03 | Possessing or using tobacco products by minors. | 608.99 | Penalty. |
| 608.04 | Smoke Free Areas. | | |

CROSS REFERENCES

Limitations on local laws penalizing intoxication, drunkenness, or incapacitation - see M.C.L.A. Sec. 333.6523

Intoxicating liquors generally - see M.C.L.A. Secs. 436.1 et seq.

Sales on Sundays and municipal election days - see M.C.L.A. Sec. 436.19e

Youth Tobacco Act - see MSA 25.281, et seq

DUI - see TRAF. 410.03(UTC 5.15 et seq.)

Liquor licenses - see B.R. & T. Ch. 834

Intoxicated taxicab passengers - see B.R. & T. 866.07

Alcoholic beverages in parks - see S.U. & P.S. 1064.09

Alcoholic beverages in cemeteries - see S.U. & P.S. 1066.03

Food Service Establishment – see Michigan Public Health Code, 1978 PA 368

608.01 OPEN HOUSE PARTIES.

(a) Definitions. As used in this section:

- (1) "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with M.C.L.A. 436.2, as amended.
- (2) "Control" means immediate dominion, including a possessory right, but does not include the interest of a landlord, land contract seller or motel or hotel operator or owner, or a similar interest.
- (3) "Minor" means a person not legally permitted, by reason of age, to possess alcoholic beverages pursuant to M.C.L.A. 436.33b, as amended.
- (4) "Open house party" means a social gathering of persons at a residence or premises, other than the owner thereof, persons with rights of possession thereto or their immediate family members.
- (5) "Residence" or "premises" means a motel room, hotel room, home, apartment, condominium or other dwelling unit, including the cartilage of the dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions and whether owned, leased, rented or used with or without compensation.

(b) Possession or Consumption of Alcohol by Minors. A person having control of any residence or premises shall not allow an open house party to take place at such residence or premises if any alcoholic beverage is possessed or consumed at such residence or premises by a minor, where the person knew that an alcoholic beverage was in the

possession of or being consumed by a minor at such residence or premises, and where the person failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage by such minor at such residence or premises.

- (c) Exceptions. This section shall not apply to legally protected religious observances or to legally protected educational activities.

(Ord. 228. Passed 6-1-87.)

608.02 SALES TO MINORS.

- (a) Licensees. No licensee of the Michigan Liquor Control Commission, and no agent, servant or employee of any such licensee, shall give, furnish or sell any alcoholic beverage to any minor, except upon authority of and pursuant to a prescription of a duly licensed physician.
- (b) Nonlicensees. No person, other than a licensee of the Michigan Liquor Control Commission or any agent, servant or employee of any licensee of the Commission, shall willfully give, furnish or sell any alcoholic beverage to any minor, except upon authority of and pursuant to a prescription of a duly licensed physician.
- (c) Purchase or Consumption by Minors. No minor shall purchase or consume any alcoholic beverage in the City, except upon the authority of and pursuant to a prescription of a duly licensed physician.

(1976 Code Sec. 26.10; Ord. 143. Passed 10-4-82.)

608.03 POSSESSING OR USING TOBACCO PRODUCTS BY MINORS.

- (a) Definitions. As used in this section:
- (1) "Chewing tobacco" means loose tobacco or a flat, compressed cake of tobacco that is inserted into the mouth to be chewed or sucked.
 - (2) "Tobacco snuff" means shredded, powdered or pulverized tobacco that may be inhaled through the nostrils, chewed or placed against the gums.
- (b) Possession and Use by Minors in Public Prohibited. A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form on a public highway, street, alley, park or other lands used for public purposes or in a public place of business or amusement. A person who violates this section is responsible for a civil infraction.
- (c) Participation in Health and Risk Reduction Program; Community Service. The court may require a person who violates this section to participate in a health promotion and risk reduction assessment program, if available. A person who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, a person who violates this section is subject to the following:
- (1) For the first violation, the court may order the person to do one of the following:
 - A. Perform not more than 16 hours of community service in a hospice, nursing home or long-term care facility.
 - B. Participate in a health promotion and risk reduction program, as described in this subsection.
 - (2) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.
 - (3) For a third or subsequent violation, in addition to participation in a health

promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

- (d) **Non-interference with Rights of Parent or Guardian.** This section does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

(Ord. No. 448. Passed 6-2-97).

608.04 SMOKE FREE AREAS

- (a) **Purpose.** The purpose of this Ordinance is to protect the public health and welfare by regulating smoking in work sites, public places and certain other areas.
- (b) **Findings.** The United States Surgeon General has determined that: (1) secondhand smoke exposure causes disease and premature death in people who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome, acute respiratory problems, ear infections and asthma attacks; (3) exposure of adults to secondhand smoke has adverse effects on the cardiovascular system and causes heart disease and lung cancer; and (4) there is no risk-free level of exposure to secondhand smoke. These findings are adopted. It is also found that tobacco smoke is a major contributor to indoor air pollution. People who are at special risk from secondhand smoke include infants, children, teens, pregnant women, elderly people, nonsmokers with long-term exposure to secondhand smoke, individuals with cardiovascular disease, and individuals with impaired respiratory function. Establishing smoke-free work places is the most effective way to ensure that exposure to secondhand smoke does not occur in the workplace.
- (c) **Definitions.**
- (1) "Business" means any partnership, joint venture, corporation or other for-profit or not-for-profit entity, including but not limited to any retail establishment, where goods are sold or services are delivered.
 - (2) "Business Vehicle" means a car, bus, van or other motorized unit which is owned or leased by an employer for the use of employees.
 - (3) "Employee" means any person who is employed by any employer, whether for wages, profit, or on a volunteer basis.
 - (4) "Employer" means any person or business, including any governmental entity that has one or more employees besides the owner of the Business.
 - (5) "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all of the space inside.
 - (6) The term "Food Service Establishment" has the same meaning as it does in the Michigan Public Health Code, 1978 PA 368, as amended, and includes bars. When a portion of a facility is licensed as a Food Service Establishment, then only that portion of the facility shall be considered a Food Service Establishment under this ordinance.
 - (7) "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to any business, retail store, health facility, manufacturing facility, convention hall, meeting hall, sports arena, theater, gymnasium, health spa, swimming pool, roller rink, ice rink, bowling alley, Laundromat, professional office, school, or public building.
 - (8) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar,

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cigarette, pipe, weed, plant or related substance or product.

- (9) "Tobacco Specialty Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
 - (10) "Worksite" means any Enclosed Area under the control of an Employer which Employees frequent during the course of their employment, including but not limited to: work areas, common areas, lounges, restrooms, lobbies, conference rooms, class rooms, cafeterias and hallways. A private residence is not a "Worksite" unless it is used as a child care, adult day care or health care facility.
- (d) Prohibitions. Smoking is prohibited in all enclosed areas of all of the following places and sites:
- (1) Worksites;
 - (2) Public Places;
 - (3) Buses, taxicabs, and other means of public transit and including bus shelters;
 - (4) Business vehicles that are occupied by more than one person;
 - (5) Semi-private rooms of health facilities;
 - (6) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
 - (7) Public Places where bingo games are held;
 - (8) Public Places in hotels and motels, plus at least eighty percent (80%) of the rooms rented to guests at each hotel and motel;
 - (9) Any facility, site or vehicle where the owner, operator, or manager of such facility, site or vehicle has prohibited smoking and has posted that prohibition prominently in writing or has given actual notice of the prohibition to the person who is smoking or who is intending to smoke.
- (e) Responsibility. Both the person who is smoking and the employer, owner, operator, or manager of the area in which smoking is prohibited is responsible for violations of this Ordinance.
- (f) Outside Smoking. Smoking is prohibited within 15 feet of entrances, open windows and ventilation systems of all places where smoking is otherwise prohibited by this Ordinance. This prohibition shall not apply to persons who pass by such an entrance, open window, or ventilation system while traveling on a public street or sidewalk.
- (g) Exemptions. The following areas are exempt from the requirements of this Ordinance:
- (1) Food Service Establishments;
 - (2) Private residences and private vehicles, except when used or in connection with the child care, health care facility or adult day care facility;
 - (3) Tobacco Specialty Stores.
- (h) Non-Retaliation. It shall be unlawful for any person or Employer to discharge, refuse to hire, or in any manner retaliate against any Employee or applicant for employment because that person seeks enforcement of this Ordinance.
- (i) Other Laws. This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted or prohibited by other applicable laws or public health regulations.
- (j) Penalty. A person found to violate this Ordinance shall be guilty of a municipal civil infraction subject to the sanctions as provided in this Code of Ordinances.

(Ord. 744. Passed 5-7-07)

608.05 POSSESSION OR CONSUMPTION OF OPEN ALCOHOL ON CITY-OWNED PROPERTY.

The City Manager may, by Executive Order, ban the possession or consumption of open alcohol on city-owned property. Any such Executive Orders issued prior to enactment of this ordinance shall constitute a ban under this ordinance. A ban of the possession or consumption of open alcohol shall be posted on signs at such points within or at the perimeter where the ban is in effect. A person who violates this Section shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisoned by not more than thirty days, or both, for each offense.
(Ord. 755. Passed 6-18-07.)

608.06 RESTRICTING SMOKING IN DESIGNATED CITY PARKS.

- (a) Definitions. As used in this section: "Smoking or smoke" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.
- (b) Smoking prohibited in designated areas in public parks. A person shall not smoke in park buildings or shelters, designated swimming areas, designated beach areas, or portions thereof, that are mechanically groomed, within 15 feet of a playground area, or waterfront parks that are owned or operated by the City and which are so posted.
- (c) Violations and penalties. A person who violates or fails to comply with this section shall be subject to any one or more of the following:
 - (1) Being asked to stop smoking;
 - (2) Being asked to leave the premises;
 - (3) Responsible for a municipal civil infraction and subject to the civil fines set forth in section 202.99 of this code.

(Ord. 848. Passed 10-19-09.)

608.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 610

Animals

610.01	Prohibited animals.	610.07	Cruelty; poisoning.
610.02	Confinement to premises.	610.08	Burning of animal matter.
610.03	Access to public ways and places.	610.09	Disposal of dead animals.
610.04	Removal of defecation.	610.10	Appearance tickets.
610.05	Dogs.	610.99	Penalty.
610.06	Sanitation of premises.		

Animal pounds - see M.C.L.A. Secs. 123.301 et seq., 750.70
 Animal diseases generally - see M.C.L.A. Secs. 287.708 et seq.
 Animals generally - see M.C.L.A. Secs. 750.49, 752.21 et seq.
 Pet shops - see B.R. & T. Ch. 848
 Injuring animals - see S.U. & P.S. 1064.03
 Animals in parks - see S.U. & P.S. 1064.11
 Animals in cemeteries - see S.U. & P.S. 1066.03

610.01 PROHIBITED ANIMALS.

- (a) Annoying Animals. No person shall harbor or keep any animal or bird which causes annoyance or disturbance in a neighborhood, by making sounds common to its species or otherwise, or which endangers the safety of any person or property.
- (b) Fowl; Bees. No person shall keep, harbor, raise or hatch domestic fowl, pigeons or bees in the City.
- (c) Livestock. Except as otherwise provided in this section, no person shall keep within the City any cattle, cow, horse, sheep, swine, goat, mule, donkey, pony or other livestock.
- (d) Exceptions. Notwithstanding the prohibitions of this section.
 - (1) Animals may be kept in a municipal zoo,
 - (2) Honeybees may be kept according to the following conditions:
 - (A) A maximum of two (2) hives may be kept per parcel.
 - (B) A flyway barrier at least six (6) feet in height shall shield any part of a property line that is within twenty-five (25) feet of a hive. The flyway barrier shall consist of a solid wall, solid fence, dense vegetation or a combination thereof.
 - (C) A constant supply of water shall be provided for all hives.
 - (D) Hive enclosures shall be located in the rear or side yard at least twenty-five (25) feet from any dwelling on a neighboring parcel and at least ten (10) feet from any sidewalk, roadway or alley.
 - (E) No honeybees shall be kept on parcels with more than one dwelling.
 - (F) The City Clerk's Office shall notify the abutting property owners of the License application in writing; and shall approve the License one week after providing such notification if all conditions of this section have been met.
 - (G) The owner or tenant registers and obtains a revocable Honeybee License from the City Clerk's Office annually.

ANIMALS

- (H) A Honeybee License may be revoked if the use allowed per the License becomes a public nuisance as defined by Traverse City Code of Ordinances Section 660.01, Public Nuisance Defined, and/or ceases to comply with the conditions of this section.
- (3) Chickens may be kept according to the following conditions:
 - (A) A maximum of four (4) hens may be kept per parcel. Roosters are prohibited.
 - (B) Slaughtering chickens outdoors is prohibited.
 - (C) Chickens shall be provided, and remain within, a fully enclosed shelter with an optional covered fenced enclosure in the rear yard.
 - (D) Enclosures shall be located at least twenty-five (25) feet from any dwelling on a neighboring parcel.
 - (E) No chicken shall be kept on parcels with more than one dwelling.
- (4) Livestock may be kept with the advanced written permission of the City Manager which shall be given if the following are demonstrated:
 - (A) The animals are kept securely and humanely;
 - (B) The animals are not kept within 100 feet of any residence;
 - (C) All laws and ordinances regarding sanitation of the premises or buildings where the animals are kept are complied with;
 - (D) There is no adverse effect upon adjoining public or private property;
 - (E) The animals are not kept for more than thirty days within a twelve-month period; and
 - (F) It is otherwise legal to keep such animals.

(e) Penalty. A person who violates this section is responsible for a municipal civil infraction. (1976 Code Sec. 7.01; Ord. 441. Passed 7-1-96; Ord. 485. Passed 1-18-00. Ord. 845. Passed 9-8-09. Ord. 955. Passed 12-3-12)

610.02 CONFINEMENT TO PREMISES.

The owner or custodian of any animal or bird shall keep such animal or bird confined to his or her own premises if necessary to avoid annoyance or disturbance in the neighborhood. A person who violates this section is responsible for a municipal civil infraction. (1976 Code Sec. 7.02. Ord. 486. Passed 1-18-00.)

610.03 ACCESS TO PUBLIC WAYS AND PLACES.

No person shall tie, stake or fasten any animal in such a manner that the animal has access to any portion of any street, alley or public place. A person who violates this section is responsible for a municipal civil infraction. (1976 Code Sec. 7.022. Ord. 487. Passed 1-18-00.)

610.04 REMOVAL OF DEFECATION.

No owner or person having custody of any dog or other animal shall permit such dog or other animal to defecate on any school grounds, public street, alley, sidewalk, tree lawn, park, other public grounds or private property in the City, other than on the premises of such owner or person, unless such defecation is removed immediately. A person who violates this section is responsible for a civil infraction. (Ord. 185. Passed 10-7-85. Ord. 417. Passed 5-15-95.)

610.05 DOGS.

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- (a) Application of State Law. No person shall violate any law of the State pertaining to dogs, or any rule or regulation pertaining to dogs adopted by any State agency.
- (b) License Required. Any dog subject to license, which dog is not licensed, is a nuisance and may be impounded in the City dog pound or County dog pound.
- (c) Running At Large. Any dog, licensed or unlicensed, which is not attached to a leash or rope of eight feet or less in length, and which is running on public places or private property, other than the premises of the owner or person having custody of such dog, may be impounded in the County dog pound. When any dog is running at large, the owner or custodian may be notified by the City of a violation of this section, and after three such notices, the dog may be taken from the owner or custodian and impounded. This subsection shall not apply to city parkland which has been designated as an off-leash area by resolution of the City Commission and so posted by sign.
- (d) Vicious Dogs. No person, being the owner, caretaker or custodian thereof, shall permit any vicious dog to be unconfined unless such dog is securely muzzled and led by a leash. Any dog which has bitten a person or domestic animal without molestation, or which, by its actions, gives indication that it is liable to bite any person or domestic animal without molestation, shall be deemed vicious. Any vicious dog which is impounded shall be confined for not less than ten days.
- (e) Quarantine. Whenever notice of a dog quarantine is published in the official newspaper by the Health Department, no person shall, during the period of such quarantine, permit any dog, of which he or she is the owner, caretaker or custodian, to be unconfined, except under conditions specified in such notice.

(1976 Code Sec. 7.03; Ord. 186. Passed 10-7-85; Ord. 187. Passed 12-16-85. Ord. 945. Passed 6/4/12)

610.06 SANITATION OF PREMISES.

The owner or custodian of any animal or bird shall maintain the premises wherein such animal or bird is kept in a clean and sanitary condition, free from rodents, vermin and disagreeable odors. A person who violates this section is responsible for a civil infraction.

(1976 Code Sec. 7.04. Ord. 418. Passed 5-15-95.)

610.07 CRUELTY; POISONING.

No person shall be cruel to any animal or bird. No person shall throw or deposit any poisonous substance on any exposed public or private place where it may endanger any animal.

(1976 Code Sec. 7.05)

610.08 BURNING OF ANIMAL MATTER.

No person shall burn any feathers, hides or other animal matter in the City unless the following criteria are met:

- (a) The activity is accessory to either a veterinary clinic, laboratory research facility or animal control pound or shelter.
- (b) Emissions into the air from the activity do not exceed State or Federal requirements.
- (c) The odor emitted shall not be noxious or considered a nuisance and shall not be harmful to the environment or to residents.

A person who violates this section is responsible for a civil infraction.

(1976 Code Sec. 7.07; Ord. 210. Passed 9-2-86. Ord. 419. Passed 5-15-95.)

610.09 DISPOSAL OF DEAD ANIMALS.

ANIMALS

- (a) Prohibited Locations. No person shall deposit, place or throw any dead or fatally sick or injured animal, or part thereof, on any public or private place, in the City dump, into any reservoir, or into any stream, lake, pond, sewer, well or other body of water, or onto the banks thereof.
- (b) Burial. No person shall bury any dead, fatally sick or injured animal, or part thereof, in the City, except that the owner or occupant of any unplatted property may bury thereon any dead animal owned by him or her, which animal died on such premises, after having obtained a written permit to do so from the Health Department. Such burial shall be made at a distance of not less than 200 yards from any residence or well, and the carcass shall be placed underground and well covered with at least four feet of earth from the surface of the ground to the upper part of the carcass.
- (c) Immediate Disposal Required. No person shall fail to immediately dispose of any dead animal found upon property under his or her possession or control, either in the manner specified in this section, by disposal at the City dump or by other suitable means outside the City.
- (d) Transporting. No person shall carry or convey any dead animal through or upon any street, alley or public place unless the same is so covered that no part of it is exposed to view and no odors can emanate therefrom.
- (e) Civil Infraction. A person who violates this section is responsible for a civil infraction.

(1976 Code Sec. 7.08 Ord. 420. Passed 5-15-95.)

610.10 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (M.C.L.A. 764.9c(2); M.S.A. 28.868(3)(2). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 349. Passed 5-17-93.)

610.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 614

Controlled Substances

614.01 Drug paraphernalia.

614.99 Penalty.

CROSS REFERENCES

Power to expend funds for prevention of substance abuse see M.C.L.A. Sec. 333.6131

Drugs and medicine generally - see M.C.L.A. Secs. 333.17701 et seq.

Marihuana - see M.C.L.A. Secs. 333.7212, 333.7401 et seq.

Intoxicating liquors generally - see M.C.L.A. Secs. 436.1 et seq.; GEN. OFF. Ch. 608

DUI - see TRAF. 410.03(UTC 5.15 et seq.)

Intoxicated taxicab passengers - see B.R. & T. 866.07

Editor's note: All language contained in all capitalized letters as well as certain additional language contained in section 614.01 was enacted by the voters of the City of Traverse City at the City General Election held on November 8, 2005. For sections that are invalid; see cross reference - City Attorney W. Peter Doren's November 14, 2005, legal opinion to the Chief of Police regarding the sections of this ordinance which were voted on by the electorate on November 8, 2005.

614.01 DRUG PARAPHERNALIA.

(a) Definitions. Except where the context clearly indicates a different meaning, as used in this section:

- 1) FOR PURPOSES OF THIS SECTION, "AUTHORIZED CAREGIVER" SHALL BE CONSTRUED TO INCLUDE ANY INDIVIDUAL WHO IS CHARGED WITH OR ASSUMES THE DUTY TO PROVIDE FOR THE IMPORTANT MEDICAL NEEDS OF A PATIENT USING A DEVICE FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING INTO THE BODY MARIJUANA UNDER THE DIRECTION, RECOMMENDATION, SUPERVISION OR GUIDANCE OF A PHYSICIAN LICENSED UNDER STATE LAW.
- 2) "Cocaine spoon" means a spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a cocaine spoon or coke spoon.
- 3) "Controlled substance" shall be as defined in Act 368 of the Public Acts of 1978, as amended (M.C.L.A. 333.7104).
- 4) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing or injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, including:
 - A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a

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- controlled substance or cannabis, or from which a controlled substance or cannabis can be derived;
- B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing a controlled substance or cannabis;
 - C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance or cannabis;
 - D. Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of, a controlled substance or cannabis;
 - E. Scales and balances used, intended for use or designed for use in weighing or measuring a controlled substance or cannabis;
 - F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting a controlled substance or cannabis;
 - G. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
 - H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding a controlled substance or cannabis;
 - I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of a controlled substance or cannabis;
 - J. Containers and other objects used, intended for use or designed for use in storing or concealing a controlled substance or cannabis; and
 - K. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - 1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - 2. Water pipes;
 - 3. Carburetion tubes and devices;
 - 4. Smoking and carburetion masks;
 - 5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - 6. Chamber pipes;
 - 7. Carburetor pipes;
 - 8. Electric pipes;
 - 9. Air-driven pipes;
 - 10. Chillums;
 - 11. Bongs; and
 - 12. Ice pipes or chillers.
- 5) "Marijuana or hashish pipe" means a pipe characterized by a bowl which is so small that the primary use for which it is reasonably adapted or designed is the

smoking of marijuana or hashish, rather than the lawful smoking of tobacco, and which may or may not be equipped with a screen.

- 6) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association.
- (b) Determinations. In determining whether or not an object is a cocaine spoon, marijuana or hashish pipe or drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- 1) Statements by an owner or by anyone in control of the object concerning its use;
 - 2) Prior convictions, if any, of an owner or of anyone in control of the object under any State or Federal law relating to any controlled substance;
 - 3) The proximity of the object, in time and space, to a direct violation of this section;
 - 4) The proximity of the object to a controlled substance;
 - 5) The existence of any residue of a controlled substance on the object;
 - 6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section, shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
 - 7) Instructions, oral or written, provided with the object concerning its use;
 - 8) Descriptive materials accompanying the object which explain or depict its use;
 - 9) National and local advertising concerning its use;
 - 10) The manner in which the object is displayed for sale;
 - 11) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
 - 12) The existence and scope of legitimate uses for the object in the community; and
 - 13) Expert testimony concerning its use.
- (c) Prohibitions; Exceptions. No person shall sell, offer for sale, display, furnish, supply or give away any cocaine spoon, marijuana pipe, hashish pipe or drug paraphernalia. This subsection shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions; to common carriers or warehousemen or their employees engaged in the lawful transportation of such paraphernalia; to public officers or employees while engaged in the performance of their official duties; or to persons suffering from diabetes, asthma or any other medical condition requiring self-injection. (Ord. 159. Passed 12-19-83. Ord. 691. Passed 11-8-05.)

THIS SUBSECTION SHALL NOT APPLY TO AUTHORIZED CAREGIVERS WHO DELIVER DEVICES FOR MEDICAL USE BY QUALIFIED PATIENTS.

614.02 MEDICAL USE.

ALLOCATION OF LAW ENFORCEMENT PRIORITIES OF THE CITY OF TRAVERSE CITY SHALL MAKE THE USE, DELIVERY OR POSSESSION OF MARIJUANA BY A PATIENT UNDER THE DIRECTION, RECOMMENDATION, SUPERVISION OR GUIDANCE OF A PHYSICIAN LICENSED UNDER STATE LAW, AND/OR THE

CONTROLLED SUBSTANCES

MEDICAL ASSISTANCE OF SUCH PATIENTS BY AUTHORIZED CAREGIVERS, THE LOWEST LAW ENFORCEMENT PRIORITY OF THE CITY.

(Ord. 691. Passed 11-8-05.)

614.03 SEVERABILITY OF AMENDMENTS.

IN THE EVENT ONE OF THE AMENDMENTS, OR SUBSECTION THEROF, TO THE EXISTING CITY CODE OF ORDINANCES IS HELD TO BE INVALID OR UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION OR ANY OTHER SUCH LEGAL AUTHORITY, THEN THE REMAINING SECTION OR SUBSECTIONS SHALL REMAIN IN SUCH FULL FORCE AND EFFECT AS PERMITTED BY LAW.

(Ord. 691. Passed 11-8-05.)

614.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 159. Passed 12-19-83.)

CHAPTER 652

Noise Control

652.01 Findings; application of chapter.

652.02 Definitions.

652.03 Authority of noise control officer.

652.04 Prohibitions.

652.05 Exceptions and variances.

652.06 Continuous and impulsive sound levels threatening health and welfare; orders to abate.

652.07 Civil actions.

652.08 Tampering with measuring devices

652.09 Retaliation.

652.10 Appearance tickets.

652.99 Penalty.

CROSS REFERENCES

Disorderly persons - see MCLA Sec. 750.167

Disturbing meetings - see MCLA Secs. 750.169; 750.170

Noise from watercraft - see SU & PS 1062.04(f), (g)

Muffler noise - see MCLA Sec. 257.707(a) through (e)

652.01 FINDINGS; APPLICATION OF CHAPTER.

Excessive sound and vibration are a serious hazard to the public health, welfare, safety and quality of life, and a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated. The people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, welfare or safety or degrade the quality of life. The damage and discomfort caused to the people arises both from stationary and from non-stationary sound and vibration and this chapter shall apply to both. (Ord. 505. Passed 8-7-00.)

652.02 DEFINITIONS.

All terminology used in this chapter and not defined in this section shall be in conformity with applicable publications of the American National Standards Institute (ANSI) or its successor body. In addition, as used in this chapter:

- A. **Commercial area** means land primarily being used as office, governmental, retail, or other commercial type uses.
- B. **Decibel (dB)** means a unit of measuring the volume of sound, equal to twenty times the logarithm of the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).
- C. **Industrial area** means land primarily being used as a manufacturing or industrial site, including airports.
- D. **Multi-Family area** means land primarily being used for structures housing three or more families. If a multiple family use occurs as a mixed use with commercial uses, the primary use of the property will be determined by the ground floor.
- E. **Noise Control Officer** means the Chief of Police and his or her agents who have lead responsibility for the enforcement of this chapter.
- F. **Noise disturbance** means any sound which either exceeds the maximum permissible sound levels of this chapter or which endangers or injures the safety or health of humans

or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

- G. **Noise sensitive zone** means areas in the City which contain noise sensitive activities, such as schools, libraries, churches, hospitals and nursing homes, as designated by resolution of the City Commission.
- H. **Pure Tone** means a single or compact range of frequency that may be perceived as a whine, hum, squeal, or buzz. The measured sound levels must not fluctuate by more than plus or minus 3 dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; and transformers.
- I. **Real property boundary** means the imaginary line which represents the legal limits of property (including an apartment, condominium, room, or other dwelling unit) owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right of way, the "real property boundary" shall be the nearest boundary of the public right-of-way.
- J. **Residential area** means land primarily being used as a one or two family dwelling and located adjacent to or near other such residentially used land.
- K. **Sound level meter means** an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels and that meets the standards of ANSI S-14 1983 or its successor.
- L. **Weighted sound level** means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

(Ord. 505. Passed 8-7-00. Ord. 582. Passed 10-21-02.)

652.03 AUTHORITY OF NOISE CONTROL OFFICER.

- (a) **Powers.** This chapter shall be administered and enforced by the Noise Control Officer. In order to implement and enforce this chapter, and for the general purpose of noise abatement and control, the Noise Control Officer shall have, in addition to any other authority vested in him or her, the power to:
 - 1. Conduct or cause to be conducted research, monitoring and other studies related to sound and vibration; and
 - 2. Upon presentation of proper credentials, enter and inspect any private property or place and inspect any report or record at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon a showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include the administration of any necessary tests.
 - 3. Promulgate rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this chapter; and
 - 4. Review at least every three (3) years the provisions of this chapter and recommend revisions consistent with technology to reduce noise, or to address new sound sources within the City.
- (b) **Duties.** In order to implement and enforce this chapter effectively, the Noise Control Officer shall, within a reasonable time after the effective date of this chapter:
 - 1. Investigate and pursue possible violations of this chapter;

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2. Delegate functions, where appropriate, under this chapter, to personnel within the Police Department and to other agencies or departments, subject to the approval of the City Manager; and
 3. Prepare recommendations, to be approved by the City Commission, for the designation of noise sensitive zones.
- (c) Enforcement. The administration and enforcement of noise control shall be controlled by the following standards:
1. The primary means of detection of a noise disturbance shall be by means of the Noise Control Officer's and other properly delegated enforcement officials' ordinary auditory senses of hearing not enhanced by any mechanical device, such as a microphone or hearing aid.
 2. An enforcing officer or other witness need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.
 3. The detection of any rhythmic base or reverberating type of sound is sufficient to constitute a plainly audible sound which may constitute a noise disturbance.

(Ord. 505. Passed 8-7-00.)

652.04 PROHIBITIONS.

- (a) Generally. No person shall unreasonably make or continue, or cause to be made or continued, any noise disturbance.
- (b) Radios, Musical Instruments and Similar Devices. No person shall operate or play, or permit the operation or playing of, any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to:
 1. Create a noise disturbance on public property or streets, across a real property boundary, or within a noise sensitive zone. If such a device is plainly audible on the property of another or within a building other than that within which the device is located, and if a complaint is made to the Noise Control Officer regarding annoyance or disturbance as a result of such device, this shall serve as prima-facie evidence of a violation.
 2. Create a noise disturbance when operated in or on a motor vehicle on a public right of way, public space or space open to the general public, or in a boat on public waters. If such a device is plainly audible at a distance of 50 feet in any direction, between the hours of 10 p.m. and 7 a.m. or 100 feet in any direction between the hours of 7 a.m. and 10 p.m., this shall serve as prima facie evidence of a violation.
- (c) Loudspeakers. No person shall use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between 10:00 p.m. and 7:00 a.m. of the following day so that the sound there from creates a noise disturbance across a residential area or multi-family area boundary or within a noise sensitive zone. No person shall use or operate for any commercial purpose any loudspeaker, public address system or similar device so that the sound there from creates a noise disturbance across a real property boundary or within a noise sensitive zone, or between 10:00 p.m. and 7:00 a.m. of the following day on a public right of way or public space.
- (d) Sound Amplifiers. No person shall operate any sound amplifying device for the purpose of advertising announcing an event, or attracting the attention of the public. However, a school, governmental unit, or bona fide nonprofit organization may secure a permit from the Noise Control Officer to use such a device. No permit will be granted for such use on

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a Sunday or at any other time or duration or under any other conditions which, in the opinion of the Noise Control Officer will constitute a nuisance.

- (e) Heavy Equipment. Except for work on essential services, no person shall use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other construction apparatus between 10:00 p.m. and 7:00 a.m. of the following day, within 600 feet of a residential area, multi-family area, or noise sensitive zone.
- (f) Loading and Unloading. No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage trucks, garbage cans or similar objects between 11:00 p.m. and 6:00 a.m. of the following day in such a manner as to cause a noise disturbance across the boundary of a residential area or multi-family area, or within a noise sensitive zone.
- (g) Stationary Non-emergency Signaling Devices. No person shall permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes. Such devices, when used in conjunction with places of religious worship, shall be exempt from this subsection.
- (h) Maximum Permissible Sound Levels by Receiving Land Use. No person on private property shall create a continuous sound which exceeds the limits set forth for the receiving land category in the following table when measured at or within the property boundary of the receiving land which source of sound shall be deemed prima-facie to be a noise disturbance. "Continuous sound" means any sound having a duration of one second or more. For any source of sound which emits a pure tone, the maximum sound level limits set forth in the following table shall be reduced by five dBA.

MAXIMUM SOUND LEVELS TABLE

<u>Receiving Land Category</u>	<u>Sound Level Limit (dBA)</u>	<u>A-weighted Time</u>
Residential area	10:00 p.m. to 7:00 a.m.	60
Multi-Family area	7:00 a.m. to 10:00 p.m.	65
Commercial area	10:00 p.m. to 7:00 a.m.	65
	7:00 a.m. to 10:00 p.m.	70
Industrial area	10:00 p.m. to 7:00 a.m.	70
	7:00 a.m. to 10:00 p.m.	75
Noise sensitive areas	10:00 p.m. to 7:00 a.m.	Established by Resolution
Noise sensitive areas	7:00 a.m. to 10:00 p.m.	

- (i) Impulsive Sound. Impulse sounds may exceed the permissible limits in the above Table by ten decibels if they occur less than ten times in any hour between 7 a.m. and 10 p.m., or less than four times in any hour between 10 p.m. and 7 a.m. If any impulsive sound exceeds these frequencies, then the permissible limits in the Table apply. "Impulsive sound" means any sound having a duration of less than one second.

(Ord. 505. Passed 8-7-00. Ord. 581. 10-21-02.)

652.05 EXCEPTIONS AND VARIANCES.

- (a) Emergencies. This chapter shall not apply to creating sound for the purpose of alerting persons to the existence of an emergency or to creating sound in the performance of emergency work.

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- (b) Lawn Maintenance Equipment. Customary lawn maintenance equipment for residential use, such as lawn mowers, leaf blowers and chain saws, from 8:00 a.m. to 9:00 p.m., if in good working order and if used only as needed, may exceed the maximum sound levels established above.
- (c) Residential Snow Removal. Snowblowers for residential use if in good working order and if used only as needed may exceed the maximum sound levels established above.
- (d) Commercial Snow Removal. Snow removal from commercial or industrial property by any internal combustion device is permitted at all times if the snow removal equipment has a properly functioning muffler. However, commercial or industrial property within 600 feet of a residential area or multi-family area shall not have snow removal undertaken by commercial equipment in excess of 15,000GVW prior to 6:00 a.m., unless permission is granted by the owners of that residential or multi-family area.
- (e) Municipal, School District and Hospital Equipment. This chapter shall not apply to sound made by municipal street and sidewalk maintenance equipment or snow removal equipment used by the City, a school district, a hospital or their agents.
- (f) Special Variances.
 - 1. The Noise Control Officer may, consistent with this section, grant special variances which may be requested.
 - 2. Any person seeking a special variance pursuant to this section shall file an application with the Noise Control Officer. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Any individual who claims to be adversely affected by the allowance of the special variance may file a statement to that effect with the Noise Control Officer containing any information to support his or her claim. If the Noise Control Officer finds that a sufficient controversy exists regarding an application, a public hearing may be held.
 - 3. In determining whether to grant or deny an application, the Noise Control Officer shall balance the hardships of the applicant, the community and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the special variance. Applicants for a special variance and persons contesting the special variance may be required to submit any information the Noise Control Officer may reasonably require. In granting or denying an application, the Noise Control Officer shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
 - 4. Special variances shall be granted by notice to the applicant containing all necessary conditions, including the time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to the provisions of this chapter regulating the source of sound or activity for which the special variance was granted.

(Ord. 505. Passed 8-7-00. Ord. 583. Passed 10-21-02.)

652.05.1 CONTINUOUS AND IMPULSIVE SOUND LEVELS THREATENING HEALTH AND WELFARE; ORDERS TO ABATE.

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- (a) The Noise Control Officer shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (b) hereof, to continuous sound levels or to impulsive sound levels which endanger or injures a person's health or safety. Following the issuance of such an order, the Noise Control Officer may remove or modify the source of the noise.
- (b) No order pursuant to subsection(a)here of shall be issued if the only person exposed to dangerous sound levels is exposed as a result of trespass, invitation upon private property by persons causing or permitting the sound or employment met by the person or by a contractor of the person causing or permitting the sound.
- (c) Any person subject to an order issued pursuant to subsection (a) hereof shall comply with such order until the sound is brought into compliance with the order, as determined by the Noise Control Officer, or until a judicial order has suspended the Noise Control Officer's order. No person shall violate an order issued pursuant to this section.

(Ord. 505. Passed 8-7-00.)

652.07 CIVIL ACTIONS.

Any person aggrieved by a violation of this chapter may commence a civil action on his or her own behalf against any person who is alleged to be in violation of Section 652.04. No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this chapter or from other law.

(Ord. 505. Passed 8-7-00.)

652.08 TAMPERING WITH MEASURING DEVICES.

No person shall damage, interfere with or tamper with any sound measuring device used to enforce this chapter.

(Ord. 505. Passed 8-7-00.)

652.09 RETALIATION.

If there is any evidence of retaliation by any offender against any complainant or witness, such evidence shall be communicated to the District Court. When sentencing any violator, the District Court shall first examine the evidence of retaliation, and if such is shown, shall consider such acts and sentence the violator accordingly.

(Ord. 505. Passed 8-7-00.)

652.10 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCL 764.9c(2); MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 505. Passed 8-7-00.)

652.99 PENALTY.

- (a) A person found in violation of this chapter shall be guilty of a civil infraction and shall be fined not less than \$100 nor more than \$500.
- (b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

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- (c) The minimum fine shall be doubled for a second violation and tripled for a third violation within any 90 day period.
(Ord. 505. Passed 8-7-00.)

CHAPTER 656

Offenses Relating to Property

656.01 Property destruction
656.02 Damaged buildings

656.99 Penalty.

CROSS REFERENCES

Destruction of library or books - see CHTR. Sec. 139

Damage claims - see CHTR. Sec. 159

Malicious destruction of property by minors - see M.C.L.A. Sec. 600.2913

Theft generally - see M.C.L.A. Secs. 750.356 et seq.

Malicious destruction of property - see M.C.L.A. Secs. 750.377a, 750.377b

Malicious destruction of trees and shrubs - see M.C.L.A. Sec. 750.382; S.U. & P.S. 1028.08(a),
(c)

Destruction of parking meters - see TRAF. 484.05

Destruction of public buildings and places of worship - see GEN. OFF. 668.13

Destruction of sewerage system property - see S.U. & P.S. 1042.14

Destruction of water equipment - see S.U. & P.S. 1044.14

Property destruction in parks - see S.U. & P.S. 1064.03

Property destruction in cemeteries - see S.U. & P.S. 1066.02

656.01 PROPERTY DESTRUCTION.

No person shall maliciously destroy, deface or injure any public property or private property that is not his or her own. (1976 Code Sec. 26.03)

656.02 DAMAGED BUILDINGS.

- (a) Removal or Repair. It is unlawful to fail to remove, demolish, or repair any building that is a Damaged Building as defined in this section.
- (b) Types of Damaged Buildings. A Damaged Building shall include, but not be limited to, buildings that have been substantially damaged by vandalism, weather, fire, water, insects, or decay. Visible unfinished construction, remodeling or repair for a period longer than the construction code permit issued for the work, or 3 months, if conducted without such a permit, shall be deemed to be a Damaged Building under this ordinance.
- (c) Notice. Notice of a violation shall be given in writing to the owner and occupant, if any, of the building with a demand to remove, demolish, or repair within a specific time as given in the notice. Property tax records shall be deemed conclusive proof of ownership for purposes of notice.

(Ord. 702. Passed 6-5-06.)

656.99 PENALTY

- (a) Civil Infraction. A violation of this Chapter is a municipal civil infraction subject to the sanctions of this Code.
- (b) City Costs. Any sanction, fine, and surcharge imposed for violation of this Chapter, and the cost of the City in correcting the violation, shall be collected as a debt from the owner maintaining or permitting the violation and shall be assessed against the real estate involved as are other special taxes. City costs shall include, but not be limited to, actual

OFFENSES RELATING TO PROPERTY

attorney fees and expense of removal, demolition, or repair by the City of the Damaged Building. Upon the recording of the amount of such costs in the City Treasurer's Office, and the City Treasurer's Affidavit of such recording being filed with the Register of Deed's office, such costs shall become a lien on the real estate.
(Ord. 682. Passed 9-06-05.)

CHAPTER 660

Public Nuisances

660.01	Public nuisance defined.	660.05	Peace and safety nuisances.
660.02	General prohibitions.	660.06	Abatement.
660.03	Public health nuisances.		
660.04	Morals and decency nuisances.		

CROSS REFERENCES

Health and sanitation generally - see Mich. Const. Art. 4, Sec. 51; M.C.L.A. Secs. 750.466 et seq.

State Housing Law - see M.C.L.A. Secs. 125.401 et seq.; B. & H. Ch. 1484

Nuisance abatement; damages and expenses - see M.C.L.A. Sec. 600.2940

Nuisances generally - see M.C.L.A. Secs. 600.3801 et seq.

Animal defecation - see GEN. OFF. 610.04

Garbage and rubbish on public property - see GEN. OFF. 668.03

Sewers as nuisances - see S.U. & P.S. 1042.14

Zoning Code violations as nuisances - see P. & Z. 1252.05

660.01 PUBLIC NUISANCE DEFINED.

"Public nuisance," as used in this chapter, means a thing, act, occupation, condition or use of property which continues for such a length of time as to:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) In any way render the public insecure in life or in the use of property;
- (c) Greatly offend the public morals or decency; or
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

(1976 Code Sec. 6.111)

660.02 GENERAL PROHIBITIONS.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance in the City or within its police jurisdiction.

(1976 Code Sec. 6.10)

660.03 PUBLIC HEALTH NUISANCES.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 660.01:

- (a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (b) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or which may constitute a fire hazard;
- (c) All stagnant water in which mosquitoes, flies or other insects can multiply;

PUBLIC NUISANCES

- (d) Garbage cans which are not fly-tight;
- (e) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust in the City in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;
- (f) The pollution of any public well or cistern, stream, river, lake, canal or body of water by sewage, creamery or industrial wastes or other substances, or the obstruction of any watercourse, drainage ditch or ravine;
- (g) Any use of any property, substance or thing in the City emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odor, effluvia or stench extremely repulsive to the physical senses of ordinary persons and which annoys, discomforts, injures or inconveniences the health of any appreciable number of persons in the City; and
- (h) All abandoned wells not securely covered or secured from public use.

660.04 MORALS AND DECENCY NUISANCES.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 660.01:

- (a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;
- (b) All gambling devices and slot machines;
- (c) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by these Codified Ordinances or State law;
- (d) Any place or premises in the City where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated; and
- (e) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State or the ordinances of the City.

(1976 Code Sec. 6.113)

660.05 PEACE AND SAFETY NUISANCES.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 660.01:

- (a) All unauthorized signs, signals, markings or devices which purport to be or which may be mistaken as official traffic control devices, placed or maintained upon or in view of any public highway or railway crossing;
- (b) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;
- (c) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use, or as to be an invitation to children and endanger the lives of such children, or which, because of their condition, have become a fire hazard;

PUBLIC NUISANCES

- (d) All wires over streets, alleys or public grounds which are strung less than fifteen feet above the surface of the street or ground;
- (e) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City, or obstructions which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;
- (f) Any structure, material or condition which constitutes a fire hazard or which will impair extinguishing a fire;
- (g) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk, which use causes large crowds of people to gather, obstructing traffic and free use of the street or sidewalk; and
- (h) Any nuisance described in the Michigan Compiled Laws.

660.06 ABATEMENT.

- (a) Inspection of Premises. Whenever a complaint is made that a public nuisance exists or has existed in the City, the Chief of Police, the Building Inspector or some other City official whom the City Manager designates, or a representative of any of such persons, shall forthwith inspect or cause to be inspected the premises and shall make a written report of findings. Whenever practical, the inspection officer shall cause photographs to be made of the premises and shall file the same in the office of the City Clerk.
- (b) Summary Abatement.
 - 1) Notice to owner. If the inspecting officer determines that a public nuisance exists on private property and that there is great and immediate danger or emergency to the public health, safety, peace, morals or decency, the City Manager may direct that a notice be served on the owner or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance, and that a copy of the notice be posted on the premises. If one or more of the owner, occupant or person responsible for the nuisance condition cannot be found, the notice shall be published once in a local newspaper. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within a definite time and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be. By recording the amount of such costs in the City Manager's office, it shall become a lien on the real estate. Whenever possible, except for emergency conditions, the owner, occupant or person causing the nuisance shall be given notice to abate such nuisance within five days.
 - 2) Abatement by City. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Chief of Police, the Building Inspector or some other City official whom the City Manager designates, or a representative of any of such persons, shall cause the abatement or removal of such nuisance. (Adopting Ordinance)
- (c) Abatement by Court Action. If the inspecting officer determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, such officer shall file a written report of findings with the City Manager, who shall cause an action to abate such nuisance to be commenced in the name of the City upon motion or resolution by the City Commission declaring a nuisance to exist.

PUBLIC NUISANCES

(d) Costs; Liens. In addition to any other penalty imposed for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes. By recording the amount of such costs in the City Treasurer's office, it shall become a lien on the real estate.

(1976 Code Sec. 6.12)

CHAPTER 664

Railroads

664.01 Unlawful uses of railroad vehicles.

664.99 Penalty

CROSS REFERENCES

Railroad crossings - see M.C.L.A. Secs. 253.1 et seq., 253.51 et seq., 469.1 et seq.

Railroads generally - see M.C.L.A. Secs. 462.2 et seq., 463.1 et seq., 750.511 et seq.

Railroad property - see M.C.L.A. Secs. 469.1 et seq.

Excavations by railroads - see S.U. & P.S. 1024.02

Zoning provisions - see P. & Z. 1299.02

664.01 UNLAWFUL USES OF RAILROAD VEHICLES.

- (a) No person shall use, occupy or park a vehicle designed to travel on rails as an office, dwelling unit or similar use in any district in the City, except as permitted in this section.
- (b) A railroad company licensed to operate as a public carrier in the State shall be permitted to store any vehicle designed to travel on wheels and used in transporting goods, materials, or passengers by rail, or used as an accessory thereto, in an I District except as follows:
 - 1. A vehicle designed to travel on wheels by rail and intended to be used in the future for transporting goods, materials, or persons shall not be stored more than 45 days in any year.
 - 2. A vehicle designed to travel on wheels by rail and intended to be scrapped or salvaged shall not be stored more than 30 days in any year
- (c) A railroad company may park other vehicles designed for rail travel within any district for the purpose of transporting, loading and unloading goods or materials assigned to shipment, or transporting, loading, and unloading passengers.
- (d) In the event any provision of this section is held to be invalid or unenforceable by a court of competent jurisdiction or any other such legal authority, then the remaining subsections shall remain in such full force and effect as permitted by law.

(1976 Code Sec. 26.15. Ord. 899. Passed 12-20-10.)

664.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 668

Safety, Sanitation and Health

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| 668.01 Incorporation of State laws. | 668.08 Barricades and warning lights for excavations. |
| 668.02 Undesirable accumulations on private property; junk; motor vehicles; building materials. | 668.09 Picketing. |
| 668.03 Littering and deposits on public property; open burning. | 668.10 Radio interference. |
| 668.04 Smoke. | 668.11 Removal of snow and ice; responsibility; costs. |
| 668.05 Noxious weeds. | 668.12 Distribution of handbills. |
| 668.06 Barbed wire fences. | 668.13 Defacing and littering public buildings and places of worship. |
| 668.07 Discarded refrigerators and airtight containers. | 668.14 Bird and Waterfowl Feeding |
| | 668.15 Appearance tickets. |
| | 668.99 Penalty. |

CROSS REFERENCES

Health and sanitation generally - see Mich. Const. Art. 4, Sec. 51; M.C.L.A. Secs. 750.466 et seq.
Health and sanitation in home rule cities - see M.C.L.A. Secs. 117.3, 117.4i
Public safety generally - see M.C.L.A. Secs. 750.493 et seq.
Safety nuisances - see GEN. OFF. 660.05
Sanitation in animal premises - see GEN. OFF. 610.06
Sanitation in pet shops - see B.R. & T. 848.03
Sanitation in rental dwellings - see B. & H. 1482.15

668.01) INCORPORATION OF STATE LAWS.

The statutes of the State relating to public health, sanitation, prevention of disease and the spreading thereof, and the rules and regulations of the State Department of Health, and all amendments or additions thereto, are hereby expressly incorporated into and made a part of this chapter. No person shall violate any such law, rule or regulation.
(1976 Code Sec. 6.01)

668.02) UNDESIRABLE ACCUMULATIONS ON PRIVATE PROPERTY; JUNK; MOTOR VEHICLES; BUILDING MATERIALS.

No owner or person having possession of land shall permit the accumulation thereon of stumps, brush, debris, junk or dismantled motor vehicles or parts thereof, or the storage of new or used motor vehicles, except as otherwise provided in these Codified Ordinances. No building materials of any kind shall be stored on any private property for more than six months unless a building permit has been issued under the Building and Housing Code, except as otherwise provided in these Codified Ordinances. A person who violates this section shall be responsible for a civil infraction.
(1976 Code Sec. 26.01. Ord. 402. Passed 11-21-94.)

668.03) LITTERING AND DEPOSITS ON PUBLIC PROPERTY; OPEN BURNING.

- (a) Generally. No person shall place or throw any goods, wares, merchandise, machinery, junk, wood, rubbish, manure, leaves, grass, sawdust, ashes, garbage or refuse upon any public street, alley or sidewalk, except that leaves may be placed at the curblin of streets for collection by City forces during a period designated by the City Manager for such collection.
- (b) Removal. Any person having the care, either as owner or occupant, of any premises bordered by a public street, alley or graded or paved sidewalk shall remove any of the materials described in

subsection (a) hereof from that portion of the public street or alley abutting the premises and bordered by the nearest limit of the traveled portion of the street or alley.

- (c) Building Materials; Permits. No person shall use any street or alley for the temporary storage of building material, equipment, facilities or merchandise, or for barricading or protecting building operations, without first obtaining a permit therefor. No building material, equipment or facilities so stored shall be placed in such a manner as to interfere with the normal drainage of the street or alley.
 - (d) Burning Rubbish. No person shall burn leaves, grass, wood, rubbish or other matter on any street, alley or public right of way.
 - (e) Penalty. A person who violates this section shall be responsible for a civil infraction.
- (Ord. 335. Passed 8-17-92. Ord. 656. Passed 12-16-04.)

668.04) SMOKE.

- (a) Emission of Dense Smoke Prohibited. No person shall cause or allow the emission of dense smoke and/or the ingredients thereof into the atmosphere in the City from any building, premises or machine.
 - (b) Exceptions. The emission of dense smoke and/or the ingredients thereof for twenty minutes in any hour, once every twenty-four hours, when a new fire is being kindled in or under a cold boiler, cold furnace or other device shall not constitute a violation of this section. The emission of dense smoke and/or the ingredients thereof for a period aggregating six minutes in any one hour and not exceeding two minutes of continuous emission of such dense smoke and/or ingredients thereof shall not constitute a violation of this section.
 - (c) Measurement of Density. For the purpose of determining, by comparison, the degree of darkness of smoke and/or the ingredients thereof, a color scale measurement is adopted, which measurement shall determine the density prohibited hereby. One thickness of grey glass of sufficient capacity to cut off sixty percent of light from a flame having the lighting power of sixteen candles shall be taken as the basis of the scale, and four thicknesses of such glass shall be known and designated as the No. 1 scale. The standard smoke tester or umbrascoper which complies with these requirements is hereby adopted as the standard measurement for comparison of the degree of darkness of smoke. Smoke of a greater degree of darkness than the No. 1 scale shall be considered dense smoke.
 - (d) Property Destruction. No person shall create or produce smoke of a density which causes substantial injury to the property of another, which produces material annoyance or inconvenience to the occupants of adjacent dwellings or which defiles carpets, curtains, linen or other household furnishings in adjacent dwellings.
 - (e) Smokestacks. No person shall operate a boiler unless the top of the smoke stack is of sufficient height or distance from nearby buildings, trees or other structures so that smoke emanating therefrom will be distributed above the level of the upper windows of adjacent dwellings.
 - (f) Unnecessary Smoke. No person shall operate a boiler in such a manner that unnecessary smoke is created thereby.
 - (g) Violation. A person who violates this section is responsible for a civil infraction.
- (1976 Code Sec. 6.06. Ord. 403. Passed 11-21-94.)

668.05) NOXIOUS WEEDS.

- (a) It shall be the responsibility of the owner of every occupied and unoccupied premises to cut down, remove, destroy or otherwise obliterate all ragweed, Canada thistles, wild carrot, poison ivy, dodders, mustards, bindweed, perennial sowthistle, hoary alyssum ragweed, poison sumac, grass over 8 inches in height (except for grasses located along or in a body of water or wetlands), or other plants which are declared by the City Commission to be a nuisance, or which are declared a nuisance by Section 2 of Act 359 of the Public Acts of 1941, as amended (M.C.L.A. 247.61 et seq.), growing on property owned by such person or under his or her possession or

control, or on that portion of the public street or alley abutting the property and bounded by the established curb or gutter line. Any such grass over 8 inches in height or such weeds are declared to be a public nuisance and shall be cut and removed or destroyed by the City, and the cost of such cutting, removal or destruction shall be collected as a lien on said premises.

- (b) The word grass shall not include cultivated flowers and gardens, including but not limited to native plantings used for aesthetic and/or to offset and control any soil loss problems either occurring or predicted.
- (c) There is hereby adopted and made applicable in the City Act 359 of the Public Acts of 1941, as amended (MCLA 246.61 et. Seq.)
- (d) The City may publish a notice in a newspaper of general circulation in the County during the month of March that grass over 8 inches in height and weeds not cut by May 1 and as necessary through November 1 of that year may be cut by the City and that the owner of the property will be charged with the cost thereof under Section 4 of Act 359. The publication shall also contain all other information required of the notice provided for in such Section 4. The City may cut grass over 8 inches in height and weeds as many times as is necessary and charge the cost thereof to the property owner. The provision of this section relative to the entering of property for the cutting of grass over 8 inches in height and weeds shall not be applicable to railroads, which railroads shall continue to be subject to Section 11 of such Act. Such notice may be in the following form:

**NOTICE
GRASS OVER 8 INCHES IN HEIGHT AND NOXIOUS WEED CUTTING**

Pursuant to Section 4a of Act 359 of the Public Acts of 1941, as amended (M.C.L.A. 247.61 et seq.), notice is hereby given that noxious weeds described in Section 2 of such Act and in Section 668.05 of the Codified Ordinances and grass over 8 inches in height as described in that section shall be cut by May 1, and as necessary through November 1 by owners of property on which they exist, or the same may be cut by the City and charged to the land owner or become a lien on the property.

By Order

CITY OF TRAVERSE CITY

- (e) A person who violates this section is responsible for a civil infraction.
(Ord. 423. Passed 6-19-95. Ord. 560. Passed 4-1-02. Ord. 683. Passed 09-06-05.)

668.06) BARBED WIRE FENCES.

No person shall place or maintain any barbed wire fencing or any strands of barbed wire along the line of or in any street, alley or public place. No person shall place or allow barbed wire fencing or barbed wire to remain between any premises owned or occupied by him or her and the adjoining premises, or place or allow to remain any barbed wire fencing or barbed wire in any place where it may expose any person to injury. However, a person may place such barbed wire at the top of a legal fence when placed not less than six feet from the ground. A person who violates this section is responsible for a civil infraction.
(1976 Code Sec. 26.04. Ord. 405. Passed 11-21-94.)

668.07) DISCARDED REFRIGERATORS AND AIRTIGHT CONTAINERS.

- (a) No person shall own, discard or permit to be stored unattended on any premises within his or her control any discarded or unused ice box, refrigerator, safe or other closed container capable of trapping a child or other person inside.
- (b) No person shall leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight snap lock or door, without first removing the lock or door from the ice box, refrigerator or

container.
(1976 Code Sec. 26.21)

668.08) BARRICADES AND WARNING LIGHTS FOR EXCAVATIONS.

Any person making any excavation on public or private property, which excavation may endanger the public or be an attractive nuisance to children, or the owner of the property on which such excavation exists, shall erect sufficient barriers around the excavation to ensure public safety and shall keep an adequate number of lighted lamps on such barriers at night. A person who violates this section is responsible for a civil infraction.

(1976 Code Sec. 26.22. Ord. 406. Passed 11-21-94.)

668.09) PICKETING.

- (a) No person shall hinder or prevent, by mass picketing, threats, intimidation, force or coercion of any kind, the pursuit of any lawful work or employment; obstruct or interfere with entrance to or egress from any place of employment; or obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports or other ways of travel or conveyance. No person, acting either individually or as one of a group, shall engage in picketing a private residence by any means. Picketing, to the full extent that the same is authorized under constitutional provisions, shall not be prohibited.
- (b) No person shall hinder or prevent, or attempt to hinder or prevent, by mass picketing, the pursuit of any lawful work or employment.
- (c) This section shall not prevent lawful picketing to the extent that the same is authorized under constitutional provisions. However, individuals forming or constituting any picket line on a public street or highway shall maintain such distance from one another so that persons desiring to pass through such picket line may do so.
- (d) No picket line shall interfere with the free passage of motor vehicles when such picket line is located in a public street, highway or alley.

(1976 Code Sec. 26.26)

668.10) RADIO INTERFERENCE.

- (a) General Prohibition. No person shall knowingly or wantonly operate or cause to be operated any machine, device, apparatus or instrument between 10:00 a.m. and 12:00 midnight, the operation of which machine, device, apparatus or instrument causes reasonably preventable electrical interference with the operation of any radio receiving set or with radio reception in the City. X-ray pictures, examinations or treatment may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio reception and are not negligently operated.
- (b) Inspections. The City Manager or his or her authorized representative may enter any premises at any reasonable hour for the purpose of inspecting the installation and working of all apparatus coming within the meaning of this section.
- (c) Fluorescent Fixtures. No person shall install, use or operate any fluorescent electrical fixture unless such fixture is equipped with proper condensers in such a condition that radio interference is not caused by the operation of the fixture.
- (d) Exceptions. This section shall not apply to any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce, the operation of which instrument, apparatus or device is licensed or authorized under any act of Congress. (1976 Code Sec. 26.25)
- (e) Violation. A person who violates this section is responsible for a civil infraction.

(Ord. No. 408. Passed 12-19-94.)

668.11) REMOVAL OF SNOW AND ICE; RESPONSIBILITY; COSTS.

SAFETY, SANITATION AND HEALTH

- (a) The removal of snow and ice from private property and the sidewalk abutting or crossing private property shall be the responsibility of the occupant of such private property. However, if there is no occupant or if the occupant cannot be determined due to multiple occupancy of the property, then the responsibility shall be the owners of such private property. The removal of snow and ice from public property and the sidewalk abutting or crossing such public property shall be the responsibility of the political subdivision or governmental agency that either owns or occupies the public property.
- (b) No person shall place snow removed from private property or accumulated on private property upon any public street, alley, sidewalk or other public property. No person shall conduct or cause to be conducted snow removal operations which remove snow from commercial, industrial, motel or multifamily residence premises or parking lots and deposit it upon private property that is zoned for single or two-family residences.
- (c) A person who violates this section is responsible for a civil infraction. In addition to the standard sanction imposed by these Codified Ordinances, any person whose act or omission violates this section and results in the City causing work to be done for the removal of snow and ice shall be liable to the City for the cost of such work, plus an administrative and overhead charge of ten percent of the cost of such work.

(Ord. 50. Passed 4-3-78. Ord. No. 409. Passed 12-19-94.)

668.12 DISTRIBUTION OF HANDBILLS.

- (a) Littering Streets. No person shall distribute, post, throw, drop or scatter in any street, alley or public place any posters, handbills, cards, samples or matter used for the purpose of advertising in such a manner as to result in the littering of any street, alley or public place.
- (b) Littering Private Property. No person shall distribute handbills, cards, samples or advertising matter on private property in such a manner as to cause the littering of any private property not his or her own.
- (c) Depositing on Vehicles. No person shall attach any handbills, cards, papers or advertising material to any portion of any motor vehicle parked in any public place, or deposits such material within or upon such vehicle.
- (d) At Night. No person shall go about the streets, alleys or other public places for the purpose of distributing posters, handbills, cards, samples or matter used for the purpose of advertising from sunset to sunrise of the following day.
- (e) Violation. A person who violates this section is responsible for a civil infraction.

(1976 Code Sec. 9.11. Ord. 639. Passed 5-3-04.)

668.13 DEFACING AND LITTERING PUBLIC BUILDINGS AND PLACES OF WORSHIP.

No person shall mar or litter any hallway, stairway, sidewalk or step to any public building or place of worship.

(1976 Code Sec. 26.03)

668.14 BIRD AND WATERFOWL FEEDING.

- (a) Purpose. The presence of large numbers of certain species of birds and waterfowl cause a public health nuisance by contaminating beaches and nearby public swimming areas, shoreline parks, river ways, buildings in the core downtown, sidewalks and pathways used by the public. Accordingly, this Ordinance is adopted to prevent such conduct as may attract and concentrate certain species on and around Grand Traverse Bay, Boardman River, Boardman Lake, Kids Creek and its tributaries, City Parks and the core downtown in the City of Traverse City.
- (b) Definitions.
 - i. “Core Downtown” shall mean that the area of Traverse City Business District described as coinciding with the official boundaries of the Downtown Development Authority

- districts.
 - ii. "Shoreline" shall mean Grand Traverse Bay, Boardman Lake, the Boardman River, Kids Creek, and their tributaries, including beaches of such.
 - iii. "Domestic Waterfowl" shall mean non-native ducks, geese and swans not retained in agricultural operations.
 - iv. "Feed and Feeding" shall mean the act of feeding or the furnishing of food or other sustenance in any form to bird or waterfowl species regulated by this Ordinance.
 - v. "Migratory Waterfowl" shall mean ducks, geese and swans native to North America.
 - vi. "Pigeon" shall mean any of the various birds of the widely distributed family Columbidae, especially the rock dove or any of its domesticated varieties.
- (c) Prohibition on Feeding.
Migratory and Domestic Waterfowl:
- i. No person shall feed, cause to be fed, or provide food for domestic or migratory waterfowl or gulls located on lands either privately or publicly owned within 100 feet of the Shoreline, in the Core Downtown, or in any City Park.
 - ii. No person shall create or foster any condition, or allow any condition to exist or continue, which results in a congregation or congestion of domestic or migratory waterfowl or gulls on lands either privately or publicly owned within 100 feet of the Shoreline, in Duncan Clinch Marina, the Core Downtown, or in any City Park.
- Pigeons:
- i. No person shall feed, cause to be fed, or provide food for pigeons located in the Core Downtown area.
 - ii. No person shall create or foster any condition, or allow any condition to exist or continue, which results in a congregation or congestion of pigeons within the Core Downtown area.
- (d) Exceptions. This section shall not be construed to prohibit humane acts towards waterfowl in individual cases, such as the temporary nurturing of a wounded bird on one's own premises, or birdfeeders erected and maintained for the purpose of feeding other avian species.
- (e) Penalty. A person who violates this section shall be responsible for a municipal civil infraction. (Ord. 790. Passed 3-17-08.)

668.15 ENTERTAINMENT IN THE C-4 AND D DISTRICTS.

No person shall cause or allow live public entertainment in the C-4 (Regional Center) District and D (Development) District to take place between the hours of 2 a.m. and 6 a.m. A person who violates this section shall be responsible for a civil infraction. This section does not apply to live entertainment on January 1 or entertainment associated with city-approved festivals. This section may be waived by the City Manager in the event that such entertainment will not detrimentally affect the public health, safety and welfare.

(Ord. 908. Passed 03-21-11.)

668.16 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (M.C.L.A. 764.9c(2); M.S.A. 28.868(3)(2). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 351. Passed 5-17-93.)

668.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty is no specific penalty is provided.)

CHAPTER 670

Personal Conduct Offenses

670.01 Indecency; swimming; exhibitionism;
 profanity.

670.03 Appearance tickets.
670.99 Penalty.

670.02 Public urination and defecation.

CROSS REFERENCES

Indecency and immorality - see M.C.L.A. Secs. 750.335 et seq.

Prostitution - see M.C.L.A. Secs. 750.448 et seq.

Morals and decency nuisances - see GEN. OFF. 660.04

Immorality in taxicabs - see B.R. & T. 866.07

670.01 INDECENCY; SWIMMING; EXHIBITIONISM; PROFANITY.

(a) No person shall engage in any indecent, insulting, immoral or obscene conduct in any street, alley or public place.

(b) No person shall swim or bathe in any public place without wearing proper apparel.

(c) No person shall make any immoral exhibition or exposure of his or her person.

(d) No person shall utter any profanity or indecent or improper language in a public place.

(1976 Code Sec. 26.11)

670.02 PUBLIC URINATION AND DEFECATION.

No person shall urinate or defecate on any street, alley or other open public place.

(Ord. 522. Passed 2-20-01.)

670.03 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (M.C.L.A. 764.9c(2); M.S.A. 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 352. Passed 5-17-93.)

670.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 690

Weapons and Explosives

690.01	Unlawful discharge.	690.99	Penalty.
690.02	Consumer Fireworks	690.03	Appearance Tickets.

CROSS REFERENCES

Teaching or demonstrating use of - see M.C.L.A. Sec. 750.528a
Arson - see M.C.L.A. Secs. 750.71 et seq.
Construction or possession of explosive devices - see M.C.L.A. Sec. 750.211a
Shooting galleries - see B.R. & T. Ch. 860
Weapons and explosives in parks - see S.U. & P.S.1064.08
Weapons and explosives in cemeteries - see S.U. & P.S.1066.03
Storage of weapons and explosives - see F.P. 1610.08
Blasting - see F.P. 1610.10

690.01 UNLAWFUL DISCHARGE.

No person shall discharge a bow and arrow, slingshot, paint pellet gun, BB gun, mechanical gun, air gun, firearm or air rifle, or other device designed to shoot, project, throw or hurl a projectile or projectiles made of steel, lead or other hard substances by means of compressed gas or air or other mechanical means, or explode any, explosive or stench bomb, except by written permission of the Police Chief.

(1976 Code Sec. 26.02. Ord. 606. Passed 7-7-02. Ord. 950, Passed 9-4-12)

690.02. CONSUMER FIREWORKS

(a) Definitions.

“Consumer Fireworks” means 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 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 does not include low-impact fireworks.

“Display Fireworks” means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

“Low Impact Fireworks” means 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.

“National Holiday” means any of the following: New Year’s Day (January 1); Martin Luther King Jr. Day (third Monday in January); Washington’s Birthday (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); and Christmas Day (December 25).

WEAPONS AND EXPLOSIVES

“Novelties” means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (i) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(b) Prohibition on use of Consumer Fireworks.

No person shall ignite, discharge or use Consumer Fireworks within the city, except this prohibition shall not preclude any person from igniting, discharging and using Consumer Fireworks on the day proceeding, the day of or the day after a National Holiday. Notwithstanding the forgoing, no person shall ignite, discharge or use Consumer Fireworks between the hours of 1:00am and 8:00am the day preceding the day of or the day after a National Holiday.

(Ord. 977. Passed 7-15-13)

(c) Penalty.

A person who violates this section is responsible for a municipal civil infraction.

(Ord. 950, Passed 9-4-12)

690.03 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (M.C.L.A. 764.9c(2); M.S.A. 28.868(3)(2). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 353. Passed 5-17-93.)

690.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)