

CHAPTER X. MISCELLANEOUS

CITY RECORDS

Section 10.1 All records of the city shall be public.

EFFECT OF ILLEGALITY OF ANY PART OF CHARTER

Section 10.2 Should any portion of this charter be declared void, illegal and unconstitutional, such finding shall not invalidate the remainder of the charter.

AMENDMENTS

Section 10.3 This charter may be amended at any time in the manner provided in Act Number 279 of the Public Acts of 1909, as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Statutory reference:

For codified provisions of Public Act 279 of 1909, see M.C.L.A. §§ 117.1 et seq.

CITY RECORDS

Section 10.4 All books, records, compilations, etc., in and pertaining to any city office, elective or appointive, shall be and remain the property of the city.

CITY LIABILITY

Section 10.5 The city shall not be liable for damages sustained by any person to his person or property by reason of the negligence of the city, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the City Clerk, within sixty (60) days after the injury resulting in such damages shall have occurred, a notice in writing, which notice shall be set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him.

The city shall not be liable for any damages to person or property arising out of any such injury unless there shall have been first presented to the City Clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action against the city for any such damages until such claim shall have been filed with the City Clerk and until the Council shall have been given opportunity to act thereon either by allowing or refusing to allow the claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the city under this section that the notice of injury and the verified proof of claim as in this section required were not presented and filed within the time and in the manner as herein provided.

NO ESTOPPEL

Section 10.6 No estoppel may be created against the city.

TRUSTS

Section 10.7 All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purpose except in cases where the cy pres doctrine shall apply.

DEFINITION OF PUBLICATION - MAILING OF NOTICES

Section 10.8 The requirement contained in this charter for the publishing or publication of notices, ordinances or proceedings shall be met by publishing any appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have had a general circulation at regular intervals in the city for at least two (2) years immediately preceding the time that it is used for such publication purposes. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication. In any case in which this charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

SUNDAYS AND HOLIDAYS

Section 10.9 Whenever the date fixed by this charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

CHAPTER AND SECTION HEADINGS

Section 10.10 The chapter, section and sub-section headings used in this charter are for convenience only and shall not be considered as part of the charter.

INTERPRETATIONS

Section 10.11 Except as otherwise specifically provided or indicated by the context:

10.11:1 All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

10.11:2 The singular number shall include the plural, the plural number shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

10.11:3 The word “person” may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

10.11:4 The words “printed” and “printing” shall include reproduction by printing, engraving, stencil duplicating, lithographing or any similar method.

10.11:5 Except in reference to signatures, the words “written” and “in writing” shall include printing and typewriting.

10.11:6 The word “office” shall include the members of the Council, the administrative officers and the Justice of the Peace. [*See Editor's Note at Chapter IX.*]

10.11:7 All references to statutes shall be considered to be references to such statutes as amended.

10.11:8 The word “default” shall be defined to include being delinquent in taxes and public utility service charges among its meanings.

10.11:9 All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.

10.11:10 The words “law” or “general laws of the state” or “statute” denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the words “law” or “general laws of the state” or “statutes” is to be applied, and applicable common law.

10.11:11 All references to section numbers shall refer to section numbers of this charter.

10.11:12 The words “assessed valuation” or “assessed value” shall mean the local assessment as approved or changed and corrected through the process of state equalization.

PENALTIES FOR VIOLATIONS OF CHARTER

Section 10.12 Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars (\$500.00) or imprisonment for not to exceed ninety (90) days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant, as provided in Section 4.28.

Editor's note:

The provisions for declaring an office vacant are found at Sections 4.26 and 4.27; Section 4.28 deals with removal from office.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

Section

- 10.01 Title of code
- 10.02 Interpretation **CHAPTER 10: GENERAL PROVISIONS**
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
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- 10.11 Official time
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- 10.13 Ordinances repealed
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- 10.15 Effective date of ordinances
- 10.16 Repeal or modification of ordinance
- 10.17 Ordinances which amend or supplement code
- 10.18 Section histories; statutory references

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Ferrysburg shall be designated as the “Ferrysburg City Code.”

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. The City of Ferrysburg, Michigan.

CITY COUNCIL. The City Council of the City of Ferrysburg.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Ottawa County, Michigan.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

POLICE DEPARTMENT, FERRYSBURG POLICE DEPARTMENT, or SPRING LAKE-FERRYSBURG POLICE DEPARTMENT. The Police Department of the City of Ferrysburg. The terms are mutually synonymous.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Michigan.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) ***AND or OR.*** Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) ***Acts by assistants.*** When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) ***Gender; singular and plural; tenses.*** Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) ***General term.*** A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or

circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Cross-reference:

Severability of ordinances, see Charter § 5.22

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES OR OFFICERS.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when use of another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words shall be supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text, as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state or federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a Sunday or a legal holiday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

Cross-reference:

Ordinance - publication, see Charter § 5.13

Definition of publication - mailing of notices, see Charter § 10.8

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

Cross-reference:

Ordinance form, see Charter § 5.12

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

Cross-reference:

Ordinance form, see Charter § 5.12

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (M.C.L.A. § 15.231) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a “Statutory Reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see Public Act 442 of 1976, being M.C.L.A. §§ 15.231 et seq.

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$500 or

imprisonment for not more than 90 days, or both fine and imprisonment. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Cross-reference:

Ordinance - penalty, see Charter § 5.14

Statutory reference:

Maximum penalty established, see M.C.L.A. § 117.4i(k)

