

CHAPTER 1 GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Benton Harbor, Michigan," and may be so cited. Such Code may also be cited as the "Benton Harbor City Code." (Gen. Code 1946, Ch. 1, § 211.1; Code 1972, § 1.5)

Charter reference-Authority to codify ordinances, § 5.9.

State law reference-Authority to codify ordinances, MCL § 117.5b, MSA § 5.2084(2).

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

It is the legislative intent of the city commission, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the city. In the construction of this Code and any amendment thereto, the following definitions and rules shall be observed, unless the context clearly indicates otherwise:

Charter. The word "Charter" shall mean the Charter of the City of Benton Harbor, adopted April 2, 1945, and shall include any amendment to such Charter.

City. The word "city" shall mean the City of Benton Harbor, Michigan.

City commission. The term "city commission" or "commission" shall mean the City Commission of the City of Benton Harbor.

Code. The term "this Code" or "Code" shall mean the Code of Ordinances, City of Benton Harbor, Michigan, as designated in section 1-1.

Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

County. The term "the county" or "this county" shall mean the County of Berrien in the State of Michigan.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint authority. All words purporting to give joint authority to three (3) or more public officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons unless it is otherwise expressly declared in the ordinance granting the authority.

Month. The word "month" shall be construed to mean a calendar month.

Chapter 1

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath, affirmation, sworn, affirmed. The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed."

Officer. Whenever any officer is referred to by title only, such reference shall be construed as if followed by the words "of the City of Benton Harbor, Michigan." Whenever, by the provisions of this Code, any officer of the city is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate. Whenever any act is required to be done pursuant to the provisions of this Code or any ordinance of the city, by any designated officer or official of the city, and such officer or official has not been appointed, such act shall be performed by the city manager.

Or, and. "Or" may be read "and" and "and" may read "or" if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part-owner, joint-owner, tenant-in-common, tenant-in-partnership, joint-tenant, or tenant-by-the-entirety, of the whole or of a part of such building or land.

Person. The word "person" includes firms, joint adventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Preceding, following. The words "preceding" and "following," when used by way of reference to any title, chapter or section of any ordinance of the city shall be construed to mean the title, chapter or section next preceding or next following that in which such reference is made, unless when some other title, chapter or section is expressly designated in such reference.

Property. The word "property" shall include real and personal property.

Public place. The term "public place" shall mean any place to or upon which the public resorts or travels, whether such place is owned or controlled by the city or any agency of the state or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied. The term "public place" shall include any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

Seal. In all cases in which the seal of any court or public office shall be required to be affixed to any paper issuing

Year. The word "year" shall be construed to mean a calendar year; and the word "year," alone, shall be equivalent to the words "year of our Lord." (Gen. Code 1946, Ch.

Chapter 1

1, § 202.1; Code 1972, §§ 1.8-1.10)
Cross reference-Zoning definitions, App. A, Art. II.

Sec. 1-3. Section catches lines and other headings.

The catch lines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catch line or in any heading or title to any chapter, article or division. (Gen. Code 1946, Ch. 1, § 205.1; Code 1972, § 1.6)

Sec. 1-4. History notes.

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

Sec. 1-5. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city;
- (2) Containing any administrative provisions of the city commission not in conflict or inconsistent with the provisions of this Code;
- (3) Granting any right or franchise;
- (4) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (5) Making any appropriation;
- (6) Levying or imposing taxes or any other taxation ordinance not inconsistent with this Code;
- (7) Establishing or prescribing grades in the city;
- (8) Providing for local improvements and assessing taxes therefor;
- (9) Dedicating or accepting any plat or subdivision in the city;
- (10) Extending or contracting the boundaries of the city;
- (11) Prescribing the number, classification, or compensation of any city officers or employees, not inconsistent herewith;

Chapter 1

- (12) Prescribing specific parking restrictions, no-parking zones; specific speed zones; parking meter zones; and specific stop or yield intersections;
- (13) Pertaining to zoning;
- (14) Creating any urban renewal project or redevelopment project;
- (15) Any other ordinance, or part thereof, which is not of a general and permanent nature; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

Sec. 1-6. Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code. (Gen. Code 1946, Ch. 11, § 1101.2; Code 1972, § 1.15)

Sec. 1-7. Adoption of state laws.

No person shall violate any law of the state, nor any rule or regulation adopted by any duly authorized agency of the state; and no enumeration of particular laws, rules or regulations in this Code or other ordinances of the city shall be held to be exclusive. (Gen. Code 1946, Ch. 1, § 201.1)

Sec. 1-8. General penalty for violation of Code or rules and regulations adopted under Code; injunctive relief; costs incurred.

- (a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) and costs of prosecution or by imprisonment of not more than ninety (90) days, or by both such fine and imprisonment. If such fine and costs are not paid forthwith, the court shall have the power to commit the offender to the county jail until such time as the fine and costs are paid, not to exceed, however, a period of ninety (90) days. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense. The penalty provided by this section shall, unless another penalty is expressly provided, apply to the amendment of any section of this Code whether or not such penalty is reenacted in the amendatory ordinance.
- (b) In addition to the penalties provided in subsection (a), the city may enjoin or abate any violation of this Code by appropriate action.
- (c) Any costs or damages incurred by the city as part of a violation or in abating such

Chapter 1

violation shall be charged to the violator in addition to any fine. (Gen. Code 1946, Ch. 1, §§ 208.1, 208.2; Code 1972, § 1.12; Ord. No. 576-87, 8-3-87; Ord. No. 595-88, 9-6-88)

(d) Any fees, fines late fees, registration fees, license fees, penalties, or other monies owed to the City of Benton Harbor as a result of a Code Enforcement, Business Registration, or Rental Property Registration action taken against or issued for a property or parcel, shall be levied against the taxes of that property or parcel if unpaid on October 15, of each calendar year.

Charter reference-Limitation on penalties, § 5.17.

State law reference-Limitation on penalties, MCL § 117.4i(10), MSA § 5.2082.

Sec. 1-9. Amendments to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, City of Benton Harbor, Michigan (or Benton Harbor City Code); is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(b) In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, City of Benton Harbor, Michigan (or Benton Harbor City Code), is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired. (Code 1972, § 1.2)

Charter reference-Ordaining clause of ordinances, § 5.1.

Sec. 1-10. Supplementation of Code-Generally.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catch lines, headings and titles for sections and other

Chapter 1

subdivisions of the Code printed in the supplement, and make changes in such catch-lines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections--- to ---" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-11. Same-Exclusion of special or temporary ordinances.

Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part hereof.

Sec. 1-12. Responsibility of officers with respect to assigned copies of Code.

Each city officer assigned a copy of this Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each such copy shall remain the property of the city and shall be turned over by the officer having custody thereof, upon expiration of his term of office, to his successor or to the city clerk, in case he shall have no successor.

Sec. 1-13. Severability.

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the city commission that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance. (Gen. Code 1946, Ch. 1, §§ 209.1, 209.2; Code 1972, § 1.13)