

**THE FOURTH CLASS CITY ACT (EXCERPT)**

**Act 215 of 1895**

**CHAPTER IX**

**ORDINANCES.**

**89.1 Style of ordinance; passage; required vote; effective date of ordinance.**

Sec. 1. The style of each ordinance shall be, "The city of ..... ordains." Each ordinance shall require for its passage the concurrence of a majority of all the aldermen elected or appointed, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor. The time when an ordinance takes effect shall be prescribed in the ordinance. If the ordinance imposes a sanction, the ordinance shall take effect not less than 20 days after the day of its passage.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3082;—Am. 1905, Act 246, Eff. Sept. 16, 1905;—CL 1915, 2998;—CL 1929, 1922;—CL 1948, 89.1;—Am. 1994, Act 19, Eff. May 1, 1994.

**89.2 Violation of ordinance; sanction; designation of civil infractions; act or omission constituting crime; limitation on fine or forfeiture; penalty.**

Sec. 2. (1) The council of a city may prescribe a sanction for the violation of an ordinance.

(2) Consistent with any of the following statutes, the council may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation:

(a) The Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(b) Act No. 235 of the Public Acts of 1969, being sections 257.941 to 257.943 of the Michigan Compiled Laws.

(c) Act No. 62 of the Public Acts of 1956, being sections 257.951 to 257.954 of the Michigan Compiled Laws.

(3) The council may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation. An ordinance may not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (2). A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction.

(4) An ordinance shall not make an act or omission a municipal civil infraction if that act or omission constitutes a crime under any of the following:

(a) Article 7 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

(b) The Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.1 to 750.568 of the Michigan Compiled Laws.

(c) Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(d) The Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(e) Part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws.

(f) The aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being sections 259.1 to 259.208 of the Michigan Compiled Laws.

(g) Part 821 (snowmobiles) of Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws.

(h) Part 811 (off-road recreation vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws.

(i) Sections 351 to 365 of the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.351 to 462.365 of the Michigan Compiled Laws.

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(5) For the violation of an ordinance other than an ordinance described in subsection (2) or (3), the council may prescribe a fine or forfeiture not exceeding \$500.00, unless a greater fine or forfeiture is authorized in this act, or imprisonment not exceeding 180 days, or both, in the discretion of the court, together with the costs of prosecution for each violation of the ordinance; may provide that the offender, on failing to pay a fine or forfeiture, or the costs of prosecution, may be imprisoned for a term not exceeding 180 days unless

payment is made before the expiration of the term; and may direct the imprisonment to be in the county jail of the county within which the city is located or in a prison or other place of confinement in the state as provided by law.

(6) A sanction for the violation of an ordinance shall be prescribed in the ordinance.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3083;—CL 1915, 2999;—CL 1929, 1923;—CL 1948, 89.2;—Am. 1994, Act 19, Eff. May 1, 1994;—Am. 1996, Act 43, Imd. Eff. Feb. 26, 1996.

### **89.2a Recreational trailway; posting of ordinance; prohibited operation of vehicle as municipal civil infraction; penalty.**

Sec. 2a. (1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the ordinance or \$500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that section 2 prohibits an ordinance from designating as a civil infraction.

**History:** Add. 1994, Act 83, Eff. Oct. 1, 1994.

### **89.3 Veto powers of officers; passage of resolution over veto.**

Sec. 3. No ordinance or resolution passed by the council shall have any force or effect, if, on the day of its passage, or on the next day thereafter, the mayor, or other officer or person legally discharging the duties of mayor, shall lodge in the office of the clerk a notice, in writing, suspending the immediate operation of such ordinance or resolution.

If the mayor, or other officer or person legally exercising the office of mayor, shall, within 3 days after the passage of any such ordinance or resolution, lodge in the office of the city clerk his reasons in writing, why the same should not go into effect, the same shall not go into effect, nor have any legal operation, unless it shall, at a subsequent meeting of the council, be passed by a 2/3 vote of all the aldermen elect, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor, and if so repassed shall go into effect according to the terms thereof. If such reasons shall not be lodged with the clerk as above provided, such ordinance or resolution shall have the same operation and effect as if no notice suspending the same had been lodged with the city clerk, and no ordinance or resolution of the council shall go into operation until after the expiration of 24 hours after its passage, unless the said mayor, or acting mayor, shall approve the same in writing.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3084;—CL 1915, 3000;—CL 1929, 1924;—CL 1948, 89.3.

### **89.4 Repealed ordinances; re-enactment.**

Sec. 4. No repealed ordinance shall be revived unless the whole, or so much as is intended to be revived, shall be re-enacted. When any section or part of a section of an ordinance is amended, the whole section, as amended shall be re-enacted.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3085;—CL 1915, 3001;—CL 1929, 1925;—CL 1948, 89.4.

### **89.5 Approved ordinances; recording.**

Sec. 5. All ordinances when approved by the mayor or when regularly enacted shall be immediately recorded by the clerk of the council, in a book to be called "The Record of Ordinances," and it shall be the duty of the mayor and clerk to authenticate the same by their official signatures upon such record.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3086;—CL 1915, 3002;—CL 1929, 1926;—CL 1948, 89.5.

### **89.6 Approved ordinances; publication; certificate; plumbing, electric, building codes, adoption; publication.**

Sec. 6. Within 1 week after the passage of any ordinance the same shall be published in some newspaper printed and circulated within the city, and the clerk shall immediately after such publication enter upon the record of ordinances, in a blank space to be left for such purpose under the recorded ordinance, a certificate stating in what newspaper and of what date such publication was made, and sign the same officially, and such certificate shall be prima facie evidence that legal publication of such ordinance has been made: Provided, however, That each city shall have power to adopt any plumbing code, electrical code, or building code which has been promulgated by the state of Michigan, or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such

code or codes by reference thereto in an adopting ordinance and without publishing any such code in full: Provided, That said code is clearly identified in said ordinance and that the purpose of said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the city clerk, available for inspection by and distribution to the public at all times, and that the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the city clerk.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3087;—CL 1915, 3003;—CL 1929, 1927;—CL 1948, 89.6;—Am. 1951, Act 28, Eff. Sept. 28, 1951.

### **89.7 Judicial notice of ordinances; best evidence, order.**

Sec. 7. In all courts having authority to hear, try or determine any matter or cause arising under the ordinances of any city, and in all proceedings in such city relating to or arising under the ordinances or any ordinance thereof, judicial notice shall be taken of the enactment, existence, provisions and continuing force of the ordinances of the city. And whenever it shall be necessary to prove any of the laws, regulations or ordinances of any city, or any resolution adopted by the council thereof, the same may be read in all courts of justice, and in all proceedings: First, From a record thereof kept by the city clerk; Second, From a copy thereof, or of such record thereof, certified by the city clerk under the seal of the city; Third, From any volume of ordinances purporting to have been written or printed by authority of the council.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3088;—CL 1915, 3004;—CL 1929, 1928;—CL 1948, 89.7.