

**CHAPTER 202  
CODIFIED ORDINANCES**

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**CROSS REFERENCES**

Ordinances and resolutions - see CHTR. Ch. 5

Enactment of technical codes by reference - see CHTR. §5.4

Publication of codes of municipal ordinances – see M.C.L.A. §117.5b

**202.01 DESIGNATION; CITATION; HEADINGS.**

(a) This volume consists of all ordinances of a general and permanent nature of the Municipality, revised, codified, arranged, numbered and consolidated into component codes, titles, chapters and sections, and as such shall be known and designated as the Codified Ordinances of Ewart, Michigan, 2007, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

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

## **202.02 AMENDMENTS; NUMBERING; ALTERATIONS.**

(a) The Codified Ordinances of Ewart may be amended at any time and, when any amendment is adopted in such form as to indicate the intention of Council to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed as including the Codified Ordinances of Ewart and any and all such amendments.

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

(c) No person shall change or amend, by additions or deletions, any part of these Codified Ordinances, or insert or delete pages, or portions thereof, or alter or tamper with these Codified Ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

(d) These Codified Ordinances shall be amended by ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

(1) To amend any section:

AN ORDINANCE TO AMEND SECTION \_\_\_\_\_ (or SECTIONS \_\_\_\_\_ and \_\_\_\_\_ ) OF THE CODIFIED ORDINANCES OF THE CITY OF EVART.

(2) To insert a new section, chapter or title:

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF EVART BY ADDING A NEW SECTION ( \_\_\_\_\_NEW SECTIONS, A NEW CHAPTER, or a NEW TITLE, as the case may be) WHICH NEW SECTION \_\_\_\_\_ (SECTIONS, CHAPTER or TITLE) SHALL BE DESIGNATED AS SECTION \_\_\_\_\_ (SECTIONS AND ) OF CHAPTER \_\_\_\_\_ OF TITLE \_\_\_\_\_ (or proper designation if a chapter or title is added) OF SAID CODIFIED ORDINANCES.

(3) To repeal a section, chapter or title:

AN ORDINANCE TO REPEAL SECTION \_\_\_\_\_ (SECTIONS \_\_\_\_\_ AND \_\_\_\_\_ ) CHAPTER \_\_\_\_\_ , TITLE \_\_\_\_\_, (as the case may be) OF THE CODIFIED ORDINANCES OF THE CITY OF EVART.

(e) Amendments to these Codified Ordinances shall be published as required by the Charter of the City of Evert, and not less than a number of copies of each amendment equal to the number of copies of these Codified Ordinances in distribution shall be published in loose-leaf form suitable for insertion in the loose-leaf copies of these Codified Ordinances. The City Clerk shall distribute such copies to the officers of the City having copies of these Codified Ordinances assigned to them. Each officer assigned a copy of these Codified Ordinances shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each copy of these Codified Ordinances shall remain the property of the City and shall be turned over by each officer having custody thereof upon expiration of his or her term of office to the City Clerk.

**202.03 DEFINITIONS AND INTERPRETATION.**

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

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

- (7) County. "County" means Osceola County, Michigan.
- (8) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.
- (9) General Rule. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.
- (10) Joint Authority. Words giving authority to a board, commission, authority or three or more officers or employees or other persons shall be construed as giving authority to a majority thereof, unless otherwise specifically provided.
- (11) Keeper and Proprietor. "Keeper" and "proprietor" mean persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or as a servant, agent or employee.
- (12) Land and Real Estate. "Land" and "real estate" include rights and easements of an incorporeal nature.
- (13) Law. "Law" means all applicable laws of the United States of America, the State of Michigan and the City of Ewart.
- (14) Michigan Compiled Laws (MCL). Where a section of these Codified Ordinances is followed by a reference to a section of the Michigan Compiled Laws (MCL), such reference indicates that the section is analogous or similar to such MCL section.

- (15) Minor. "Minor" means any person who is under the age of eighteen years.
- (16) Municipality or City. "Municipality" or "City" means the City of Ewart, Michigan. Further, the words "the City" or "this City" shall be construed as if the words "of Ewart" followed them and shall extend to and include its several officers, agents and employees.
- (17) Notice. "Notice" means notice as described in Section 202.04.
- (18) Number. Words in the plural include the singular and words in the singular include the plural number.
- (19) Oath. "Oath" shall be construed to include 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 "
- (20) Ordinance. "Ordinance" means and includes any ordinance of the Municipality, including any provision of these Codified Ordinances.
- (21) Owner. "Owner," when applied to property, includes a part owner, joint owner or tenant in common of the whole or any part of such property.
- (22) Person. "Person" includes any individual, co-partnership, corporation, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (23) Premises. "Premises," when used as applicable to property, extends to and includes land and buildings.

- (24) Property. "Property" includes real and personal property and any mixed and lesser estates or interests therein. "Personal property" includes every kind of property except real property; "real property" includes lands, tenements and hereditaments.
- (25) Public Acts. "Public Acts" means Acts of the State legislature of the State of Michigan.
- (26) Public Place. "Public place" means any place to or upon which the public resorts or travels, whether such place is owned or controlled by the City or any agency of the State or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied.
- (27) Publish. "Publish" means to print in a newspaper of general circulation in the Municipality the entire document or a brief summary thereof with a listing of places where copies have been filed and times when they are available: for inspection.
- (28) Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or the giving of such notice.
- (29) Reference to Offices or Officers. Reference in any of the provisions of these Codified Ordinances to any office or officer of the City, State or County shall include any person authorized by law to perform the duties of such office or officer.
- (30) Residence. "Residence" means an abode in which a person permanently resides.

- (31) Shall and May. "Shall" is mandatory; "may" is permissive.
- (32) Sidewalk. "Sidewalk" means that portion of a street between the curb lines or lateral lines and the right-of-way lines, which is intended for the use of pedestrians.
- (33) State. "State" means the State of Michigan.
- (34) Street, Highway and Alley. "Street," "highway" and "alley" mean the entire width subject to an easement for public right of way, or owned in fee by the City, County or State, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel. The word "alley" means any such way or place providing a secondary means of ingress and egress from a property.
- (35) Tenant and Occupant. "Tenant" and "occupant," as applied to buildings or land, shall extend and be applied to any person holding a written or oral lease of, or who occupies the whole or any part of, a building or land, alone or with others.
- (36) Tenses. The use of any verb in the present tense includes the future.
- (37) Time. Whenever any time established in the Codified Ordinances for the taking of any action expires on a Sunday or a legal holiday, such time shall not expire on such day but shall expire on the next week day.
- (38) Responsibility. Whenever any act is prohibited by a provision of these Codified Ordinances or by any rule or regulation adopted hereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

#### **202.04 NOTICES.**

(a) Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which, if performed by the City, may be assessed against the premises under the provisions of these Codified Ordinances, shall be served:

- (1) By delivering the notice to an owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion; or
- (2) By mailing such notice by certified or registered mail to such owner at his or her last known address; or
- (3) If an owner is unknown, by posting such notice in some conspicuous place on the premises for five days before the act or action concerning which the notice is given.

(b) Notice to any part owner, joint tenant or tenant in common shall be deemed to be notice to all such part owners, joint tenants or tenants in common.

(c) No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any City officer unless permission is given by such officer to remove such notice or placard.

#### **202.05 SEVERABILITY.**

It is the legislative intent of Council in adopting these Codified Ordinances that all provisions and sections of these Codified Ordinances be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. Should any provision or section of these Codified Ordinances be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that these Codified Ordinances shall stand, notwithstanding the invalidity of any provision or section thereof.

The provisions of this section shall apply to the amendment of any section of these Codified Ordinances, whether or not the wording of this section is set forth in the amendatory ordinance.

**202.06 SECTIONS AND ORDINANCES REPEALED; REVIVOR.**

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

(b) The repeal of a repealing provision does not revive the provision originally repealed nor impair the effect of any saving clause therein.

**202.07 EXEMPTIONS FROM REPEAL.**

The repeal provided for in Section 202.06 shall not affect:

(a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the adoption of these Codified Ordinances;

(b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the Municipality, or authorizing the issuance of any bonds of the Municipality, or any evidence of the Municipality's indebtedness, or any contract or obligation assumed by the Municipality;

(c) The administrative ordinances and resolutions of Council not in conflict or inconsistent with any provision of these Codified Ordinances;

(d) Any right, license or franchise conferred by any ordinance or resolution of Council on any person;

(e) Any ordinance or resolution establishing, naming, relocating or vacating any street or other public way;

(f) Any ordinance or resolution or part thereof providing for the establishment of positions, for salaries or compensation;

(g) Any prosecution, suit or other proceeding pending, or any judgment rendered, on or prior to the adoption of these Codified Ordinances;

(h) Any ordinance or resolution levying or imposing taxes or assessments;

(i) Any ordinance or resolution establishing or changing the boundaries of the Municipality; or

(j) Any ordinance or resolution adopted by Council after the adoption of these Codified Ordinances.

#### **202.08 APPLICATION OF CODIFIED ORDINANCES.**

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

#### **202.09 UPDATING AND REVISION OF CODIFIED ORDINANCES.**

(a) By contract or by City personnel, supplements to these Codified Ordinances shall be prepared and printed whenever authorized or directed by Council. A supplement to these Codified Ordinances shall include all substantive permanent and general parts of ordinances passed by Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby to these Codified Ordinances, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into these Codified Ordinances and will, where necessary, replace pages which have become obsolete or

partially obsolete, and the new pages shall be prepared so that, when they have been inserted, these Codified Ordinances will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to these Codified Ordinances, portions of these Codified Ordinances which have been repealed shall be so indicated by the codifier (meaning the person, agency or organization authorized to prepare the supplement) by use of an editor's note detailing how such portion was repealed.

(c) When preparing a supplement to these Codified Ordinances, the codifier may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into these Codified Ordinances. For example, the codifier may:

- (1) Organize the ordinance material into appropriate chapters, sections, subsections and other subdivisions~
- (2) Provide appropriate catch lines, headings and titles for chapters, sections, subsections and other subdivisions of these Codified Ordinances printed in the supplement, and make changes thereto~
- (3) Assign appropriate numbers to chapters, sections and other subdivisions to be inserted in these Codified Ordinances, and, where necessary to accommodate new material, change existing chapter, section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this section" or "this subsection," etc., as the case may be, or to "sections \_ to \_" (inserting section numbers to indicate the sections of these Codified Ordinances which embody the substantive sections of the ordinance incorporated into these Codified Ordinances); and

- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into these Codified Ordinances, 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 these Codified Ordinances, except as otherwise provided by the City.

**202.10 INCLUSION OF DEPUTY OR SUBORDINATE IN TITLE OF OFFICER.**

Whenever, by the provisions of these Codified Ordinances, any officer of the City of Ewart is assigned any duty or empowered to perform any act or duty, the title of said officer shall mean and include such officer or his or her deputy or authorized subordinate.

**202.99 GENERAL CODE PENALTY; COMPLICITY.**

(a) General Penalty. Whoever violates any of the provisions of these Codified Ordinances, or of any technical or other code adopted by reference in these Codified Ordinances, or of any rule, regulation or order promulgated or made under authority of any provision of these Codified Ordinances, or under authority of any technical or other code adopted by reference in these Codified Ordinances, or under authority of State law, for which no penalty is otherwise specifically provided, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days, or both, plus costs of prosecution in the discretion of the Court, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues, unless otherwise provided.

(b) Surcharges; Equitable Remedies. The imposition of any penalty provided for in this section shall be in addition to any surcharge levied for a violation of a provision of these

Codified Ordinances, or a provision of a technical or other code adopted by reference in these Codified Ordinances, or a rule, regulation or order promulgated or made under authority of either or under authority of State law, and shall be in addition to any equitable remedy provided by a provision of these Codified Ordinances, or a provision of a technical or other code adopted by reference in these Codified Ordinances, or a rule, regulation or order promulgated or made under authority of either, or under authority of State law, including the enforced removal of prohibited conditions.

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