TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. 1147
Effective date: August 27, 2020

TITLE: STREETS

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1020 - Streets of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1020 - Streets[1]

Footnotes:
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Charter reference— Use of streets by utilities, § 117; Authority of City re streets, Ch. XIII; Use of streets by Light and Power Board, § 179(f)

State Law reference— Curbs and gutters, §§ 91.1, 102.8; Streets and alleys in home rule cities, §§ 117.4d, 117.4e, 117.4h; Excavations generally, §§ 554.251 et seq.

Cross reference— Special assessments for pavement, § 232.08; Excavations generally, Ch. 1024; Curbs and gutters, Ch. 1026; Use of streets by utilities, § 1040.02; Streets in subdivisions, §§ 1246.01, 1248.09; Zoning of vacated streets, § 1256.04; Street numbers, Ch. 1470

1020.01 – Definitions.

Words used in the present tense include the future; the singular includes the plural and the plural the singular. In addition, as used in this chapter:

(1) Obstruction means to impede or inconvenience passage of the public on any part or all of the public highway, street, alley, bike path/lane, parking, sidewalk, waterway, stairway, easement, or right-of-way.

1020.02 - Street map.

(a) *Adoption.* All streets shall be known and designated by the names applied thereto, respectively, on the map of the City filed with the City Clerk, which map is hereby adopted and made a part of this section by reference. The naming of any new street or the changing of the name of any street shall be done by resolution, which resolution shall amend the map.

(b) *Vacated streets.* Vacated portions of streets and alleys shall be shown on the map. The vacating of any street or alley shall be done by resolution, which resolution shall amend the map.

(1976 Code Sec. 9.01)

1020.03 - Vacating.

(a) *Resolution.* When the City Commission deems it advisable to vacate, discontinue or abolish any street, alley, public ground or part thereof, it shall by resolution so declare, and in the same resolution shall appoint a time, not less than four weeks thereafter, when it will meet and hear objections to such action.

(b) *Notice.* Notice of such meeting shall be published in the official newspaper three times, at least one week apart, before the time appointed for such meeting. Notice of such meeting shall also be mailed to all abutting property owners, based on current assessment records, at least seven days prior to such meeting.

(c) *Objections.* Objections to such proposed action of the Commission may be filed with the City Clerk, in writing, and if any objection is filed, the street, alley, public ground or any part thereof shall not be vacated or discontinued, except by a concurring vote of five members of the Commission.

(d) *Fee.* Before any action is taken as provided in this section, the party proposing, recommending or petitioning for the vacation, discontinuance or abolishment of any street, alley, public ground or part thereof shall pay to the City Treasurer a fee as fixed from time to time by resolution of the City Commission. Under no condition shall such fee or any part thereof be refunded for failure of such vacation, discontinuance or abolishment to be approved by the City Commission.

(1976 Code Sec. 9.02; Ord. 12, Passed 2-21-77; Ord. 39, Passed 11-7-77; Ord. 322, Passed 12-16-91; Ord. 1036 , Passed 7-5-16)

1020.04 – Obstruction Prohibited.

(a) No person shall make any excavation in, cause any damage to, or place any article, thing, or obstruction in any street, easement, or right-of-way in the city without a right-of-way permit and approved traffic control plan except under the conditions and in the manner permitted in this chapter.

(b) Obstruction of a public highway, street, alley, bike path, parking, sidewalk, waterway, stairway, easement, or right-of-way without a valid right-of-way permit shall be a violation of this ordinance whether the obstruction arises from the individual's acts alone or from their acts combined with the acts of others. Such acts shall be punishable as a civil infraction. The individual or entity will be notified of the infraction and given reasonable time to correct the problem. Failure to correct the infraction by the time specified in the notification will result in a civil infraction and all costs associated with correcting the infraction will be passed on to the individual or entity who cause the infraction.

(1976 Code Sec. 9.04)

1020.05 - Playing in streets and alleys; toy vehicles.

(a) No person shall play ball or any other game upon any public street or alley.

(b) No person upon roller skates or riding any coaster, toy vehicle or similar device shall go upon any roadway except while crossing a street on a crosswalk. (1976 Code Sec. 9.06)

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

(Ord. No. 410. Passed 12-19-94).

1020.06 - Closing streets; permit required.

No person other than a police officer or firefighter shall close any street without a permit. A person who violates this section is responsible for a civil infraction.

(1976 Code Sec. 9.18. Ord. 411. Passed 12-19-94.)

1020.07 - Materials overhanging streets.

(a) *In general.* No person shall suspend or support any article which will overhang any portion of a public street or alley, except as provided in these Codified Ordinances or except as authorized by written permission in the sound discretion of the City Commission.

(b) *Ropes and pulleys.* No person shall raise anything from or lower anything to any street, alley or public place by means of a rope, chain, pulley or similar device without first obtaining a permit therefor from the City Engineer. Protection for pedestrians using the street or alley shall be provided. A bond in an amount determined by resolution of the City Commission shall be posted with the City Engineer.

(c) *Awnings.* No person shall install any awning overhanging any public street or alley unless such awning is of a type that will permit rolling up, elevating or otherwise withdrawing at will or unless authorized by written permission in the sound discretion of the City Commission. No awning shall have less than seven feet of clearance between its lowest projection and the surface of the public street or alley, nor shall it project into the street or alley more than nine feet from the lot line of the premises adjacent thereto.

(d) *Poles and wires.* No person, other than a recognized public utility company, shall place or remove any pole or string or remove any wire in the public streets or alleys without first obtaining a permit therefor from the City Engineer. The issuance of such permit shall be contingent upon the requirement that the placement of such pole or wire shall not be detrimental to the public safety and that the amount of tree trimming required shall be held to a minimum. A bond in an amount determined by resolution of the City Commission shall be posted with the City Engineer to protect the City and the public from damages from such operation.

(e) *Violation.* A person who violates this section is responsible for a civil infraction.

(1976 Code; Adopting Ordinance; Ord. 412. Passed 12-19-94.Ord. No. 434. Passed 2-5-96.)

1020.08 - Sidewalk cafe permits.

(a) *Permit conditions.* The City Clerk may issue to an adjacent food service establishment a revocable sidewalk cafe permit to occupy a portion of adjacent City right-of-way to place tables and chairs, planters and windscreens adjacent to the tables and chairs in conjunction with selling and consuming food and beverages under the following terms and conditions:

(1) *Prohibitions.* The occupancy must not:

a. Interfere with the use of the right-of-way for pedestrian or vehicular travel.

b. Unreasonably interfere with the view, access to, or use of property adjacent to said street.

c. Reduce the pedestrian travel area of any sidewalk to less than four feet in width; a clear linear path at least four feet in width must be maintained at all times; and effective April 1, 2015, not reduce the pedestrian travel area of any sidewalk to less than five feet in width; a clear linear path at least five feet in width shall be maintained at all times. The pedestrian travel area shall not include trees, bushes, walls, parking meters, fire hydrants, tree grates or any other fixtures permanently located in the right-of-way.

d. Cause damage to the street or sidewalk or to trees, benches, landscaping, or other objects lawfully located in the right-of-way. The sidewalk anchoring system to secure an item in the sidewalk shall be approved by the City Engineer in writing prior to installation. Anchoring systems secured to adjacent buildings and approved by the building owner, do not require approval by the City Engineer.

e. Cause a violation of any state or local laws.

f. Be used for off-premises advertising. All signs must conform to the sign ordinance.

g. Conceal or detract from the appearance of landscaping features in or adjacent to the street.

h. Be in or adjacent to property zoned exclusively for residential purposes.

i. Be attached to or reduce the effectiveness of or access to any utility pole, sign or other traffic control device.

j. Cause increased risk of theft or vandalism.

k. Violate regulations adopted by the City Manager pursuant to this Code.

l. Serve alcohol unless the business holds a sidewalk café with alcohol permit issued by the City Clerk.

m. Leave any furniture or equipment associated with the sidewalk café on public property when the café is not in operation. This subsection shall be effective April 1, 2015.

n. May not operate beyond 11:00 p.m.

(2) *Notice.* Notice to the adjacent property owners or occupants on both sides of the applicant's property shall be required before issuing a permit to occupy any right-of-way area between the edge of the vehicle use area of the right-of-way and the right-of-way property line. Said notice should include an enumeration of the conditions or rights provided under section 1020.08(1) of this Code.

(3) *Fee.* Prior to the issuance of a permit, a fee in an amount established by resolution of the City Commission shall be paid to the City Clerk. This fee shall be tripled if any such occupancy occurred prior to the issuance of a permit.

(4) *Insurance.* The permittee shall show proof of and maintain comprehensive general liability insurance and have the City as an additional named insured. The amount of such insurance shall be determined by the City Clerk.

(5) *Waste.* Any holder of a sidewalk café permit shall be responsible for the proper disposal of all waste associated with their sidewalk café occupancy and shall ensure that the waste is removed on a daily basis.

(6) *Food service establishment.* Food service establishment shall be defined in accordance with its meaning in the Food Law of 2000, as amended, M.C.L.A. § 289.1101.

(7) *Regulations.* The City Manager may adopt an executive order controlling the occupancy pursuant to a sidewalk cafe permit.

(8) *Site plan and barrier requirement.* A site plan shall be submitted with the application showing where a barrier will be placed to maintain an unobstructed foot path five feet wide for pedestrians at all times, to ensure compliance with the Americans with Disabilities Act. A barrier shall delineate the sidewalk café and generally be 36 feet in height and be approved by the City Planning Director. Barriers shall be anchored to the sidewalk upon approval by the City Engineer; alternatively, barriers can be anchored to the adjacent building with the building owner's approval. The placement of any required barriers shall be marked on the sidewalk by the Code Enforcement Officer and shall include an anchoring system; the barrier shall be such that it is sufficient to ensure compliance with the approved site plan. The barrier shall be removed when the business closes each day. If the city's ADA Coordinator determines that existing conditions are such that a barrier is not required to maintain an unobstructed foot access path at least five feet wide for pedestrians, the requirement for the barrier may be waived by the city's ADA Coordinator. This subsection shall be effective April 1, 2015.

(9) *Compliance with approved site plan.* The café shall, at all times, comply with the approved site plan.

(b) *Duration.* Permits shall be for the period of April 1 to November 1 for the year in which granted.

(c) *Display.* A permit shall only be valid if displayed in a manner visible to the public.

(d) *Permit revocation.* Any permit may be revoked by the City Clerk upon a finding that the occupancy does not meet the standards of this Code, any other provisions of this Code, or other applicable law or regulation, or that the right-of-way is needed for other street or utility purposes. Upon such revocation, the fee paid for any period after termination of the street occupancy shall be refunded.

(e) *Appeal.* Persons who are refused a permit or have had their permit revoked may request in writing a hearing on that determination before the City Manager. The decision of the Manager may be appealed to the City Commission. Requests for a hearing or an appeal must be made within five days of the questioned decision.

(f) *Non-renewal of permit.* If a permit holder has two or more violations in a permit year, the City Clerk shall not renew the permit the following permit year.

(g) *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 (MCLA 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.

(h) *Violations.* A person who violates this section is responsible for a civil infraction.

(Ord. 368. Passed 8-16-93. Ord. 539. Passed 7-16-01. Ord. 570. Passed 7-1-02. Ord. 658. Passed 12-6-04 Ord. 700. Passed 4-3-06. Ord. 1009. Passed 8-4-14. Ord. 1013. Passed 2-17-15)

1020.09 - Sidewalk café with alcohol permit.

(a) *Permit conditions.* The City Clerk may issue to a food service establishment a revocable sidewalk café with alcohol permit to occupy a portion of adjacent City right-of-way to place tables and chairs, planters and windscreens in conjunction with selling and consuming food and alcoholic beverages, provided the following terms and conditions are met:

(1) May not operate beyond 11:00 p.m.

(2) Service of alcohol at the sidewalk café does not violate any state, federal or local laws, promulgated rules, or policies or executive orders of the city.

(3) A barrier shall surround the sidewalk café; it shall be approved by the City Planning Director, generally be 36 feet in height, and shall be removed when the establishment closes each day.

(4) A site plan shall be submitted with the application showing where a barrier will be placed to maintain an unobstructed foot path five feet wide for pedestrians at all times, to ensure compliance with the Americans with Disabilities Act. Barriers shall be anchored to the sidewalk upon approval by the City Engineer; alternatively, barriers can be anchored to the adjacent building with the building owner's approval. The placement of any required barriers shall be marked on the sidewalk by the Code Enforcement Officer and shall include an anchoring system; the barrier shall be such that it is sufficient to ensure compliance with the approved site plan. The barrier shall be removed when the business closes each day. If the city's ADA Coordinator determines that existing conditions are such that a barrier is not required to maintain an unobstructed foot access path at least five feet wide for pedestrians, the requirement for the barrier may be waived by the city's ADA Coordinator. This subsection shall be effective April 1, 2015.

(5) The business must post a sign in a prominent location that is one square foot that indicates, "No beverages beyond the barrier of this Sidewalk Café." Specifically, the sign shall be posted within the perimeter of the sidewalk cafe.

(6) *Prohibitions.* The occupancy must not:

a. Interfere with the use of the right-of-way for pedestrian or vehicular travel.

b. Unreasonably interfere with the view, access to, or use of property adjacent to said street.

c. Reduce the pedestrian travel area of any sidewalk to less than four feet in width; a clear linear path at least four feet in width must be maintained at all times. Effective April 1, 2015, the occupancy must not reduce the pedestrian travel area of any sidewalk to less than five feet in width; a clear linear path at least five feet in width must be maintained at all times. The pedestrian travel area shall not include trees, bushes, walls, parking meters, fire hydrants, tree grates or any other fixtures permanently located in the right-of-way.

d. Cause damage to the street or sidewalk or to trees, benches, landscaping, or other objects lawfully located in the right-of-way. The sidewalk anchoring system to secure an item in the sidewalk shall be approved by the City Engineer in writing prior to installation. Anchoring systems secured to adjacent buildings and approved by the building owner, do not require approval by the City Engineer.

e. Cause a violation of any state or local laws.

f. Be used for off-premises advertising. All signs must conform to the sign ordinance.

g. Conceal or detract from the appearance of landscaping features in or adjacent to the street.

h. Be in or adjacent to property zoned exclusively for residential purposes.

i. Be attached to or reduce the effectiveness of or access to any utility pole, sign or other traffic control device.

j. Cause increased risk of theft or vandalism.

k. Leave any furniture or equipment associated with the sidewalk café on public property when the café is not in operation. This subsection shall be effective April 1, 2015.

l. Violate regulations adopted by the City Manager pursuant to this Code.

(7) *Notice.* Notice to the adjacent property owners or occupants on both sides of the applicant's property shall be required before issuing a permit to occupy any right-of-way area between the edge of the vehicle use area of the right-of-way and the right-of-way property line. Said notice should include an enumeration of the conditions or rights provided under section 1020.09(1) of this Code.

(8) *Fee.* Prior to the issuance of a permit, a fee in an amount established by resolution of the City Commission shall be paid to the City Clerk. This fee shall be tripled if any such occupancy occurred prior to the issuance of a permit.

(9) *Insurance.* The Permittee shall show proof of and maintain comprehensive general liability insurance and liquor liability insurance and have the City as an additional named insured. The amount of such insurance shall be determined by the City Clerk.

(10) *Waste.* Any holder of a sidewalk café with alcohol permit shall be responsible for the proper disposal of all waste with their sidewalk café occupancy and shall ensure that the waste is removed on a daily basis.

(11) *Compliance with approved site plan.* The café shall, at all times, comply with the approved site plan.

(12) *Food service establishment.* Food service establishment shall be defined in accordance with its meaning in the Food Law of 2000, as amended. M.C.L.A. § 289.1101.

(13) *Regulations.* The City Manager may adopt an executive order controlling the occupancy pursuant to a sidewalk café with alcohol permit.

(14) *Agreement for cafes not directly adjacent to building required.* For sidewalk cafes where the café area is on sidewalk that is adjacent to the building but configured so that the pedestrian walkway is between the building and the café area, the owner of the sidewalk café shall enter into a sidewalk café license agreement with the city further specifying the terms and conditions of the permit. The City Clerk is authorized to execute such agreements on behalf of the city.

(15) *Duration.* Permits shall be for the period of April 1 to November 1 for the year in which granted.

(16) *Display.* A permit shall only be valid if displayed in a manner visible to the public.

(17) *Permit revocation.* Any permit may be revoked by the City Clerk upon a finding that the occupancy does not meet the standards of this Code, any other provisions of this Code, or other applicable law or regulation, or that the right-of-way is needed for other street or utility purposes. Upon such revocation, the fee paid for any period after termination of the street occupancy shall be refunded.

(18) *Appeal.* Persons who are refused a permit or have had their permit revoked may request in writing a hearing on that determination before the City Manager. The decision of the Manager may be appealed to the City Commission. Requests for a hearing or an appeal must be made within five days of the questioned decision.

(19) *Non-renewal of permit.* If a permit holder has two or more violations in a permit year, the City Clerk shall not renew the permit the following permit year.

(20) *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 (MCLA 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.

(21) *Violations.* A person who violates this section is responsible for a misdemeanor.

(Ord. 700. Passed 4-3-06. Ord. 1009. Passed 8-4-14. Ord. 1013. Passed 2-17-15)

1020.10. - Newsrack permits.

(a) *Purpose.* It is the intent of this section to place reasonable time, place, and manner restrictions on the location of newsracks or newspaper vending machines to further the City's objective in preserving the public health, safety and welfare by providing for the proper and efficient maintenance and intended use of the public rights-of-way and aesthetics while also leaving open adequate means of distribution of newspapers and other publications in public places in a manner that treats all equally regardless of their size, content, circulation, or frequency of publication.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection.

Newsrack means any self-servicing or coin-operated box, container, vending machine, storage unit or other dispenser installed, used or maintained for the display, sale, or dissemination of any newspaper, news periodicals, or magazines, including the dissemination of any real estate or other publications. "Owner" means the person who is responsible for installing or maintaining a newsrack.

Right-of-way means lands, by deed, conveyance, agreement, easement, grant, dedication, usage or process of law, dedicated to the general public for street, highway, alley, pedestrian walkway, storm drainage, bicycle path or other purposes.

Sidewalk means any surface primarily intended for the use of pedestrians on any right-of-way.

(c) *Newsracks prohibited.* No person shall install, use or maintain any newsrack or other structure that projects onto, into or over any part of the right-of-way except the sidewalk.

(d) *Permit required.* No owner shall place or install, use or maintain any newsrack on a sidewalk without first obtaining a permit from the City Clerk therefore. The City Clerk may issue a revocable newsrack permit under the following terms and conditions:

(1) The newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all times.

(2) No newsrack shall exceed a maximum height of 48 inches, 22 inches in depth, and 26 inches in width.

(3) Newsracks shall not be placed, installed, used or maintained:

a. Within ten feet of any crosswalk.

b. Within ten feet of any fire hydrant or other fire department connection.

c. Within ten feet of any driveway.

d. Within ten feet of any designated bus stop.

e. At any location whereby the clear space for the passageway of pedestrians is reduced to less than four feet.

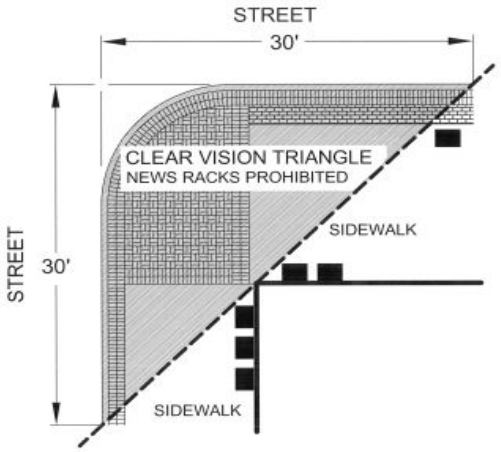
f. On or within four feet of any street sign, parking meter, streetlight, water valve, manhole, utility pole or other similar structure.

g. Within four feet from outside edges of designated emergency exit or Knox Box.

h. Within the clear vision triangle.

i. Over utility covers.

(4) All newsracks placed where on-street parking is permitted shall be placed parallel to and not less than 18 inches or more than 42 inches from the face of the curb.



(5) All newsracks shall be stable and made of durable material.

(6) Newsracks shall not be secured to any public property.

(7) Newsracks shall not be secured to any private property without the permission of the owner or person in possession of the property.

(8) Newsracks shall contain a clearly legible, weather resistant identification plate, not less than ten square inches in area, stating the name of the owner along with the installation date and permit number.

(e) *Expiration.* Once issued a permit shall be valid provided that all terms and conditions of the permit are met and the newsrack is not otherwise deemed abandoned pursuant to this section.

(f) *Fee.* The permit fee shall be as established, and as may be changed from time to time, by resolution of the City Commission and shall be paid at the time of the application.

(g) *Insurance.* Prior to the issuance of the permit, the owner shall provide the City with proof of general liability insurance naming the City as an additional insured. Such insurance shall be maintained and the owner shall provide the City with proof

thereof for the term of the Permit. The amount of insurance shall be determined by the City Clerk.

(h) *Permit revocation.* Any permit may be revoked by the City for any of the following reasons:

(1) The occupancy does not meet the terms and conditions of this section.

(2) The newsrack has been abandoned. A newsrack shall be deemed abandoned when no publication is in the newsrack for a period of more than 30 consecutive days.

(3) If the newsrack constitutes a threat to public health or safety.

If the City determines that any of the above conditions exist, the City shall notify the owner in writing of the determination. The notice shall specify a reasonable time, not to exceed ten days, in which the owner may cure the condition. In addition, a copy of the notice shall be affixed on the newsrack. In the event that the owner fails to take corrective action and does not appeal the determination as provided in subsection (i), the permit shall be deemed revoked and the City may remove the newsrack pursuant to subsection (j)(2).

(i) *Appeal.* An owner, who receives notification as provided in subsection (h), may request in writing a hearing on that determination before the City Manager. The City Manager's determination is final. Requests for a hearing or an appeal must be made within ten days of the date of the notice.

(j) *Removal of newsrack.*

(1) *By owner.* In the event that an owner desires or is required to remove a newsrack, the owner shall notify the City Clerk, completely remove the machine, and restore the right-of-way to a safe condition.

(2) *By city.* If the permit is revoked pursuant to subsection (h), and the owner fails to remove the newsrack within ten days from receipt of notice of such revocation or appeal the determination, the City shall remove the newsrack. Upon removal, the City shall deliver a notice of removal to the owner describing the location from which the newsrack was removed and the address of the location where the newsrack is being stored.

(k) *Release of newsrack.* After removal by the City, a newsrack shall be released to its owner, upon proof of ownership and payment of a pick-up and collection charge. If any newsrack is not claimed within 30 days, the newsrack shall be deemed abandoned and shall become the property of the City for disposal; and a disposal charge plus the pick-up and collection charge shall be assessed to the owner. The fees shall be as established, and as may be changed from time to time, by resolution of the City Commission.

(l) *Emergency removal.* Should any newsrack constitute a threat to the public health or safety, the newsrack shall be subject to immediate removal by the City. In the event that the newsrack is so removed the City shall provide the owner with notice of the removal as soon as practical thereafter.

(m) *Severability.* The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this section that can be given effect without the invalid provisions or application.

(n) *Penalty.* Any person in violation of this section shall be responsible for a Municipal Civil Infraction, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 823. Passed 1-19-09.)

1020.11 - Outdoor cafés in designated on-street parking areas.

(a) *Permit conditions.* The City Clerk may issue to a food service establishment a revocable Outdoor Café Permit authorizing the placement of the outdoor café in on-street parking areas on streets where the posted speed is 25 miles per hour or less, pursuant to Section 1020.08 or 1020.09 of this Code. For Outdoor Café Permits where alcohol is not served, the provisions of Section 1020.08 of this Code shall apply in all respects; provided, however, if there is a conflict between this section and Section 1020.08, the provisions of this section shall survive. For Outdoor Café Permits where alcohol is served, the provisions of Section 1020.09 of this Code shall apply in all respects; provided, however, if there is a conflict between this section and Section 1020.09, the provisions of this section shall survive. Such permits shall be subject to the following terms and conditions:

(1) *General conditions.*

a. The Café shall be located within designated street parking areas where 50 percent or more of the parking space is in front of the food service establishment applicant. A maximum of two parking spaces will be permitted. Use of the "brick ribbon" on sidewalk is permitted when applicable.

b. Cafés will not be permitted on the 100 and 200 block of East front Street.

c. A maximum of 10 permits will be issued for Cafés within the Downtown Development Authority district.

d. A fee in the amount determined by resolution of the City Commission shall be paid prior to issuance of a permit by the City Clerk such fee may be prorated based on the number of days used as agreed to in an Outdoor Café License Agreement. A Right-of-Way permit will also be required.

e. The Café shall be established upon a removable platform approved by the City Planning Director, City Engineer, City Department of Public Services, City Fire, and Grand Traverse County Construction Code before being placed in the designated on-street parking area; the platform shall be placed in such a manner to not create trip hazards. Drawings must be submitted by a registered design professional.

f. The Café shall be separated from vehicular traffic with a 1' perimeter and surrounded by a barrier generally 36 inches in height and be approved by the City Planning Director, City Engineer, City Department of Public

Services, City Fire, and Grand Traverse County Construction Code, which will remain in place at all times when the café is in operation, and shall include markings or other devices or decorations to make the barrier clearly visible at all times. Planters are required.

g. The platform shall not be placed in the designated on-street parking spaces sooner than May 1 each year and shall be removed no later than October 1 each year, At the discretion of the City Clerk, the time frame when the platform may be placed in the designated on-street parking spaces may be extended.

h. The Café shall conform to the site plan which shall be incorporated as part of the permit. Such site plan shall show the following: the design, relevant details and location of all temporary structures, including the dimensions of the removable platform, planters, landscaping, railings, tables, chairs and lighting. Permitted materials include, wood, metal, cast iron, steel, and high quality recycled plastic.

i. If the use of a musical instrument and/or sound reproduction system is planned, such use shall be governed by this Code and there shall be no amplification of live music.

j. The City Manager may adopt rules and regulations regarding the construction, use and removal of outdoor cafes within designated street parking areas. Outdoor Cafés within designated street parking areas shall be operated in accordance with the rules and regulations as they may be adopted or amended. An Outdoor Café within a designated on-street parking area which is operated in violation of the rules and regulations shall be removed within 24 hours of written notice.

k. The owner of the Outdoor Café shall enter into an Outdoor Café License Agreement with the City further specifying the terms and conditions of the permit which allows a Café to be placed within designated street parking areas. The City Clerk is authorized to execute such agreements on behalf of the City.

l. The Outdoor Café will be open to patrons of the licensee and not the general public.

m. Smoking shall be prohibited; and a sign shall be posted within the platform indicating smoking is prohibited.

n. Other conditions established by the City Clerk in the permit.

(2) *Prohibitions.* The occupancy must not:

a. Violate any provisions of Section 1020.08 or 1020.09 of this Code of Ordinances; provided, however, that if there is a conflict between this section and Section 1020.08 or 1020.09 of this Code, the provisions of this section shall survive.

b. Extend more than seven feet from the curb line.

(Ord. 1040 . Passed 12-19-16; Ord. 1047 . Passed 4-17-17)

Editor's note— Ord. 1040 , adopted December 19, 2016, set out provisions intended for use as § 1020.10. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as 1020.11.

1020.99 - Penalty.

Editor's note— See § 202.99 for general Code penalty if no specific penalty is provided.

The effective date of this Ordinance is the 17th day of August, 2020.

I hereby certify the above ordinance amendment was introduced on August 3, 2020, at a regular meeting of the City Commission and was enacted on August 27, 2020, at a regular meeting of the City Commission by a vote of Yes: 7 No: 0 at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

_____

James Carruthers, Mayor

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Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on August 21, 2020.

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Benjamin C. Marentette, City Clerk