

**FERRY BOATS ORDINANCE
CITY OF MACKINAC ISLAND, MICHIGAN
Ord. No. 445 Effective: April 8, 2010**

An ordinance amending the City of Mackinac Island Ordinance with respect to ferry boats.

THE CITY OF MACKINAC ISLAND ORDAINS:

DIVISION 1. GENERALLY

Section 1. Repealer.

The previous Ferry Boats Ordinance, No. 244, is hereby repealed and replaced by this ordinance.

Section 2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Extended ferry boat season means the period of time between March 15 of any calendar year and January 15 of the following calendar year.

Ferry boat means any boat used to transport persons and/or property to and from the city.

Ferry boat company means any person which owns, controls, operates or manages a ferry boat providing a ferry boat service.

Ferry boat service means the transporting of persons and/or property for pay to or from the city by ferry boat.

Regular ferry boat season means the period of time between April 30 of any calendar year and October 31 of the same calendar year.

To and from the city means to or from the city where the ferry boats depart, or are destined to points and places within the state, respectively.

Section 3. Declaration of purpose.

The purpose of this article is to:

- (1) Provide fair regulation of ferry service to and from the city in the interest of the public;
- (2) Promote and encourage adequate, economical and efficient ferry service to and from the city;
- (3) Promote and encourage harmony between ferry boat companies and their customers and passengers; and
- (4) Provide for the furnishing of ferry service without unjust discrimination, undue preferences or

advantages.

Section 4. Penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor. Each day of violation of this article shall constitute a separate offence.

Section 5. Majority concurrence required.

Any approval, denial or waiver by the council pursuant to this article shall require the concurrence of a majority of all the elected aldermen.

Section 6. Schedule of services; additional services.

- (a) The council may grant a franchise to operate a ferry boat service either during the regular ferry boat season or during the extended ferry boat season.
- (b) A ferry boat company must operate in accordance with its schedule of services as is on file with the council. Provided, however:
 - (1) Nothing in this article should be interpreted as limiting any ferry boat company from offering ferry boat services in addition to the services contained in its filed schedule of services.
 - (2) Prior to the commencement of any regular ferry boat season the council may grant a ferry boat company permission to commence ferry boat service either before or after April 30 and permission to terminate service either before or after October 31.
 - (3) A ferry boat company providing services during the extended ferry boat season is not obligated to provide service on any day of the extended season when, in the judgment of ferry boat company, it would be unsafe to provide service because of the weather.

Section 7. Safety regulations; reporting requirement.

- (a) The ferry boats operated in connection with a ferry boat service shall meet all of the safety regulations of the United States Coast Guard. Any person operating a ferry boat in connection with a ferry boat service must provide written evidence of satisfaction of all of the United States Coast Guard regulations prior to the commencement of any ferry boat service.
- (b) Any person operating a ferry boat in connection with a ferry boat service must give notice to the council, in writing, of any violation of the United States Coast Guard regulations of which such person has been informed by the United States Coast Guard, either in writing or by verbal communication.

Section 8. Rates; filing requirements.

- (a) No ferry boat company shall make any unjust or unreasonable discrimination in rates, charges, classifications, promotions, practices, regulations, facilities or services for or in connection with ferry boat services, nor subject any person to any prejudice or disadvantage in any respect whatsoever; however, this shall not be deemed to prohibit the establishment of a graded scale of charges and classification of rates to which any customer or passenger coming within such classification shall be entitled.

(b) Any ferry boat company operating under approval of the Interstate Commerce Commission or the state public service commission, or which have filed tariffs with the Interstate Commerce Commission or the state public service commission, shall file a summary of the authorities held from either of these commissions with the council. Such ferry boat company shall also file with the commission a true copy of its tariffs on file with either of these commissions. The council shall be given written notice of any proposed modification of the tariffs on file with these commissions. Such notification shall be given to the council by any ferry boat company, in writing, as soon as any letter, form, or other document is filed with either of these commissions seeking a modification of such ferry boat company's tariffs.

DIVISION 2. FRANCHISE

Section 9. Required.

- (a) No person shall operate a ferry boat service nor shall any person provide a ferry boat service or acquire ownership or control of a ferry boat company in the city without such person having first obtained a franchise therefore from the city.
- (b) No person shall use, occupy or traverse any public place or public way in the city or any extensions thereof or additions thereto for the purpose of establishing or maintaining a ferry boat service or any facility used in conjunction therewith, including, but not limited to, any building, pier, piling, bulkhead, reef, breakwater or other structure in, upon or over the waters of the city harbor, without such person having first obtained a franchise therefore from the city.

Section 10. Application; contents; fees.

- (a) The application for a franchise to operate a ferry boat service shall be made in writing to the council and include:
- (1) The applicant's name, and if other than a single individual, a certified copy of the partnership agreement, articles of association, or articles of incorporation, as the case may be.
 - (2) The applicant's principal place of business.
 - (3) A description of each ferry boat which will be used to provide a ferry boat service.
 - (4) A schedule of ferry boat services proposed to be operated including arrival and departure times to and from the city and the passenger capacity for each scheduled trip.
- (b) The application shall be accompanied by an application fee established by ordinance.
- (c) If a ferry boat service will be operated in such an irregular fashion so that a time schedule of services is not feasible, no such schedule of services need be filed with the application.

Section 11. Schedule of services; filing.

Any ferry boat company operating with a franchise issued under this division shall provide a copy of its schedule of services to the clerk of the city annually. If changes are made in that schedule which will

affect services for more than four days, the ferry boat company will provide notice of the change to the city clerk.

Section 12. Issuance; display; transfer.

- (a) Upon the approval of the filed schedule of services or waiver of the same by the council, and receipt of the application fee, the council shall issue a franchise as is required by this division.
- (b) Upon the granting of such franchise, the city clerk shall issue a certificate evidencing the existence of such franchise, which must be publicly displayed on all ferry boats providing a ferry boat service.
- (c) No franchise granted under this section may be sold, transferred or assigned unless such transaction is first approved by the council after receipt of a written application therefore, containing the same information as to transferee as would be required of an original applicant.

Section 13. Nonexclusive; term; form.

Any franchise issued pursuant to this article shall be a nonexclusive franchise for a term of years, not to exceed 20 years, as the council may approve and shall be issued in the form to be determined by the council.

Section 14. Fees; reporting; record.

- (a) During the term of any franchise granted pursuant to this division for the operation of ferry boat service during the regular ferry boat season, the person granted such franchise shall pay to the city in consideration of the granting of such franchise a monthly franchise fee in the amount of 2½% of the gross receipts from all charges for providing a ferry boat service.
- (b) During the term of any franchise granted pursuant to this division for the operation of ferry boat service during the extended ferry boat season, the person granted such franchise shall pay to the city in consideration of the granting of such franchise a monthly fee in the amount of 2% of the gross receipts from all charges for providing a ferry boat service.
- (c) The monthly franchise fee shall be due and payable on the last day of each month in which any ferry boat service is performed. Such franchise fee shall be paid monthly during the existence of the franchise on or before the 15th day of the month following the month for which the franchise fee is due and payable. Such franchise fee shall be paid at the treasurer's office of the city during regular business hours. If the city treasurer's office is closed on the 15th day, then payment may be made during regular business hours on the next following day on which the office is open for business.
- (d) Each payment of the monthly franchise fee shall be accompanied by a statement setting forth in detail the computation of the franchise fee, including the gross receipts for the period for which the payment is made and certified under oath by the franchisee or an officer thereof.
- (e) The city shall have the right to inspect at all reasonable times the customer records of any person granted a franchise under this division from which its franchise fee payments are computed and shall have the right of audit and recomputation of any and all franchise fees paid. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the city may have for further

or additional sums payable as a franchise fee under this section or for the performance of any other obligation under this division.

Section 15. Rights of city; public utility.

Any franchise granted under this division is made subject to all applicable provisions of the Charter of the city and ordinances thereof, and specifically subject to the rights and powers of the city and limitations upon the ferry boat company holding such franchise as are set forth in the Charter, including, but not limited to, chapter IX, section 1, chapter XV and chapter XVI thereof which are herein incorporated by reference, and such ferry boat company shall abide by and be bound by such rights, powers and limitations, and any franchise granted under this division constitutes and shall be considered as a public utility franchise and a ferry boat company shall be deemed to be a public utility.

Section 16. Recourse of franchisee.

Any person granted a franchise pursuant to this division shall have no recourse whatsoever against the city, its officers, boards, commissions, agents or employees for any loss, cost, expense or damage arising out of any provision or requirement of this article or the enforcement thereof.


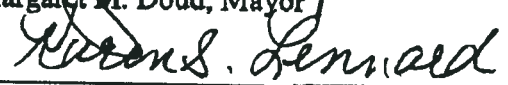
Section 17. Value.

No franchise granted pursuant to this division shall be given any value by any court or other authority public or private, in any proceeding of any nature or character whatsoever, wherein or whereby the city shall be a party or affected therein or thereby.

Section 18. Effective Date.

This ordinance shall become effective twenty (20) days after passage.

Date: March 24, 2010


Margaret M. Doud, Mayor

Karen S. Lennard, City Clerk

Adopted: 3/24/10

Effective: 4/8/10