

TITLE I: GENERAL PROVISIONS

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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(B) All words used in this code indicating the present tense shall not be limited to the time of adoption of this code but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. (1997 Code, § 1102.2)

(C) The singular number shall include the plural, the plural number shall include the singular, and the masculine gender shall extend to the feminine gender and the neuter. (1997 Code, § 1102.3)

(D) All references to section numbers shall refer to section numbers of this code. (1997 Code, § 1102.9)

(E) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

§ 10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the “Brown City Code.”

Statutory reference:

Codification authority, see MCL 117.5b, Public Act 279 of 1909

§ 10.02 DEFINITIONS.

(A) Terms used in this code, unless otherwise specifically defined, have the meanings prescribed by the statutes of the state for the same terms.

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.

CHARTER. The Charter of the City of Brown City, and shall include any amendment thereto, or any revision thereof.

CITY. The City of Brown City, Michigan.

CITY COUNCIL or **COUNCIL.** The City Council of the City of Brown City.

CLERK. The Clerk of the City of Brown City. (1997 Code, § 1102.7)

CODE. The Brown City Code as designated in § 10.01.

COUNTY. County of Sanilac, Michigan.

JUVENILE. Any person under 17 years of age.

LAW or **GENERAL LAWS OF THE STATE.** The Constitution and Public Acts of Michigan in effect at the time the provision of the code containing the reference is to be applied. (1997 Code, § 1102.6)

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MINOR. A person under 21 years of age.

Michigan.

MUNICIPAL CIVIL INFRACTION. An act or omission that is prohibited by this code or any ordinance of the City, but which is not a crime under this code or any other ordinance of the City, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs may be ordered, as authorized by Public Act 236 of 1961, as amended, being MCL 600.8701 - 600.8735. A **MUNICIPAL CIVIL INFRACTION** is not a lesser included offense of any criminal offense in this code.

STATUTE. The Public Acts of Michigan in effect at the time the provisions of the code containing the reference is to be applied. All references to specific Public Acts shall be to the acts as are in effect at the time the reference to the act is to be applied.
(1997 Code, § 1102.5)

OFFICER, DEPARTMENT, BOARD, AND THE LIKE. Whenever any officer, department, board or other public agency is referred to by title only, the reference shall be construed as if followed by the words “of the City of Brown City, 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 the officer shall mean and include the officer or his or her deputy or authorized subordinate.

§ 10.03 SECTION CATCHLINES AND OTHER HEADINGS.

The catchlines 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 the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted. No provision of this code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article, or division.

ORDINANCES. The ordinances of the City of Brown City and all amendments thereto.

§ 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

PERSON. Any natural individual, firm, trust, partnership, association, or corporation. Whenever the word **PERSON** is used in any section of this code prescribing a penalty or fine, as applied to partnerships or associations, the word includes the partners, or members thereof, and as applied to corporations the word includes officers, agents, or employees thereof who are responsible for any violations of the section. The singular includes the plural. The masculine gender includes the feminine and neuter genders.

Nothing in this code or the ordinance adopting this code shall affect any ordinance not in conflict with or inconsistent with this code:

STATE. The term **THE STATE** or **THIS STATE** shall be construed to mean the State of

- (B) Containing any administrative provisions of the City Council;
- (C) Granting any right or franchise;
- (D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, and the like, any street or public way in the City;

- (A) 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;
- (E) Making any appropriation;
- (F) Levying or imposing taxes;
- (G) Establishing or prescribing grades in the City;
- (H) Providing for local improvements

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and assessing taxes therefor;

(I) Dedicating or accepting any plat or subdivision in the City;

(J) Extending or contracting the boundaries of the City;

(K) Prescribing the number, classification, or compensation of any City officers or employees;

(L) Prescribing specific parking restrictions, no-parking zones; specific speed zones; parking meter zones; and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;

(M) Pertaining to rezoning;

(N) Any other ordinance, or part thereof, which is not of a general and permanent nature;

and all the ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. The ordinances are on file in the City Clerk's office.

§ 10.05 CONTINUATION OF ORDINANCES.

The provisions of this code, so far as they are the same in substance as those of heretofore existing ordinances, shall be construed as a continuation of the ordinances and not as new enactments.

§ 10.06 PRIOR RIGHTS, OFFENSES, AND THE LIKE.

Any act done, offense committed or right

(A) By contract or by City personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the City Council. 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

accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of adoption of this code shall not be affected by the adoption, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the adoption had not been effected.

§ 10.07 ORDINANCES REPEALED NOT REENACTED.

No ordinance or part of any ordinance heretofore repealed shall be considered reordained or reenacted by virtue of this code, unless specifically reenacted. The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby.

§ 10.08 AMENDMENTS TO CODE.

(A) Amendments to any of the provisions of this code shall be made by amending the provisions by specific reference to the section number of this code in the following language: "That section _____ of the Brown City Code, is hereby amended to read as follows:..." The new provisions shall then be set out in full as desired.

(B) If a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Brown 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.

§ 10.09 SUPPLEMENTATION OF 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

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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 catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in the catchlines, 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," and the like, 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.

(2) By mailing the notice by registered mail to the owner at his or her last known address; or

(3) If the owner is unknown, by posting the notice in some conspicuous place on the premises 5 days prior to the date set therein for compliance.

§ 10.10 APPEARANCE TICKETS.

The following public servants are hereby authorized to issue and serve appearance tickets with respect to ordinances of the City, as provided by Public Law 147 of 1968, as amended, being MCL 764.9a - 764.9e, when the public servant has reasonable cause to believe that a person has committed an offense in violation of a City ordinance:

- (A) Health Officer;
- (B) Building Inspector;
- (C) City Police; and
- (D) Fire Chief.

§ 10.11 SEPARABILITY OF PROVISIONS.

Each section, paragraph, sentence, clause, and provision of this code is separable and, if any provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this code, or any part thereof, other than that part affected by the decision.

§ 10.12 NOTICE.

(A) Any notice due any person or required to be served by this code shall be served:

(1) By delivering the notice to the 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;

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

(C) The Clerk shall maintain a separate file of notices given hereunder, including a record of the date upon which the notice was delivered, mailed, or posted.

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(1997 Code, § 1201)

§ 10.99 GENERAL PENALTY.

(A) *General penalties and sanctions for violations of code and City ordinances; continuing violations; injunctive relief.*

(1) Unless a violation of this code or any ordinance of the City is specifically designated in the code or ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(2) The penalty for a misdemeanor violation shall be a fine not exceeding \$500 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation of this code or any ordinance.

(3) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this code or any ordinance, plus any costs, damages, expenses, and other sanctions, as authorized under Public Act 236 of 1961, as amended, being MCL 600.8701 - 600.8735, and other applicable laws.

(a) Unless otherwise specifically provided for a particular municipal civil infraction violation by this code or any ordinance, the civil fine for a violation shall be not less than \$50, plus costs and other sanctions, for each infraction.

(b) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this code or any ordinance. As used in this section, **REPEAT OFFENSE** means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any 6-month period (unless some other period is specifically provided by this code or any ordinance) and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this code or any ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows.

1. The fine for any offense that is a repeat offense shall be not less than \$100 plus costs.

2. The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$150 plus costs.

(4) A **VIOLATION** includes any act that is prohibited or made or declared to be unlawful or an offense by this code or any ordinance; and any omission or failure to act where the act is required by this code or any ordinance.

(5) Each day on which any violation of this code or any ordinance continues, constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(6) In addition to any remedies available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this code or any City ordinance.

(1997 Code, § 1105A)

(B) *Municipal civil infractions.*

(1) *Definitions and rules of construction.* For the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.
amended, being MCL 600.8701 - 600.8735.

ACT. Public Act 236 of 1961, as

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AUTHORIZED CITY OFFICIAL. A police officer or other personnel of the City authorized by this code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

BUREAU. The Municipal Ordinance Violations Bureau as established by this division (B).

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice prepared by an authorized City official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE. A written notice prepared by an authorized City official, directing a person to appear at the Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the City, as authorized under MCL 600.8396 - 600.8707(6).

(2) *Municipal civil infraction action; commencement.* A municipal civil infraction action may be commenced upon the issuance by an authorized City official of:

(a) A municipal civil infraction citation directing the alleged violator to appear in court; or

(b) A municipal civil infraction violation notice directing the alleged violator to appear at the Municipal Ordinance Violations Bureau.

(3) *Municipal civil infraction citations; issuance and service.*

(a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(b) The place for appearance specified in a citation shall be the district court.

(c) Each citation shall be numbered consecutively, and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the City and issued to the alleged violator, as provided by MCL 600.8705.

(d) A citation for a municipal civil infraction signed by an authorized City official shall be treated as made under oath, if the violation alleged in the citation occurred in the presence of the official signing the complaint, and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

(e) An authorized City official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(f) An authorized City official may issue a citation to a person if:

1. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

2. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, and if the Prosecuting Attorney or City Attorney approves in writing the issuance of the citation.

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(g) Municipal civil infraction citations shall be served by an authorized City official as follows.

1. Except as provided by division (B)(3)(g)2. below, an authorized City official shall personally serve a copy of the citation upon the alleged violator.

2. If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served on the alleged violator, but may be served upon an owner or occupant of the land, building, or structure by posing the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

(4) *Municipal civil infraction citations; contents.*

(a) A municipal ordinance citation shall contain: the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he or she may do 1 of the following:

1. At or by the time specified for appearance, admit responsibility for the municipal civil infraction by mail, in person, or by representation;

2. At or by the time specified for appearance, admit responsibility for the municipal civil infraction with explanation, by mail, in person, or by representation; or

3. Deny responsibility for the municipal civil infraction by doing either of the

following:

a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the City; or

b. Appearing in court for a formal hearing before a judge or district court magistrate with the opportunity of being represented by an attorney.

(c) The citation shall also inform the alleged violator of all of the following:

1. That if the alleged violator desires to admit responsibility with explanation, in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance, and obtain a scheduled date and time for an appearance;

2. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance, and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation;

3. That a hearing shall be an informal hearing, unless a formal hearing is requested by the alleged violator or the City;

4. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney; and

5. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

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(d) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor, and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(5) *Municipal Ordinance Violations Bureau.*

(a) *Bureau established.* The City hereby establishes a Municipal Ordinance Violations Bureau (“Bureau”), as authorized under MCL 600.8396, to accept admissions of responsibility for municipal civil infraction in response to municipal civil infraction violation notices issued and served by authorized City officials, and to collect and retain civil fines and costs as prescribed by this code or any ordinance.

(b) *Location; supervision; employees; rules and regulations.* The Bureau shall be located at the City Hall and shall be under the supervision and control of the City Clerk. The City Clerk, subject to the approval of the City Council, shall adopt rules and regulations for the operation of the Bureau, and shall appoint any necessary qualified City employees to administer the Bureau.

(c) *Disposition of violations.* The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled, and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the City from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau, and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person’s rights, privileges, and protection accorded by law.

(d) *Bureau limited to accepting admissions of responsibility.* The scope of the Bureau’s authority shall be limited to accepting admissions of responsibility for municipal civil infractions, and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense, or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized City officials under the same circumstances and upon the same persons as provided for citations as provided in divisions (B)(3)(f) and (B)(3)(g) above. In addition to any other information required by this code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

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(g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized City official issues and serves a municipal ordinance violation notice, and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a municipal civil infraction citation may be filed with the district court, a copy of the citation may be filed with district court, and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by MCL 600.8705 and 600.8709, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice, and shall fairly inform the alleged violator how to respond to the citation.

(6) *Schedule of civil fines established.*

(a) A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be as follows:

1. Violation of §§ 70.06, 91.06, 91.07, 91.10, 92.01 *et seq.*, 96.01 *et seq.*, 150.01 *et seq.* - \$50;

2. First repeat offense - \$100;
and

3. Second (or any subsequent) repeat offense - \$150.

(b) A copy of the schedule, as amended from time to time, shall be posted at the Bureau.

(1997 Code, § 1108)