

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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CHARTER. The Charter of the City of Big Rapids. ('88 Code, Title I, Ch. 1, § 1.1)

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. The City of Big Rapids, Michigan. ('88 Code, Title I, Ch. 1, § 1.1)

CITY COMMISSION or COMMISSION. The legislative or governing body of the City as defined in the Charter. ('88 Code, Title I, Ch. 1, § 1.1)

CODE, THIS CODE or THIS CODE OF ORDINANCES. This Code including all additions and amendments thereto known as the "Big Rapids City Code". ('88 Code, Title I, Ch. 1, § 1.1)

COUNTY. The County of Mecosta. ('88 Code, Title I, Ch. 1, § 1.1)

MAY. The act referred to is permissive.

§ 10.01 TITLE OF CODE.

The within Ordinance Code was adopted by the Big Rapids City Commission pursuant to Act No. 46, Public Acts of 1960, State of Michigan, and ordered printed.

§ 10.02 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.03 DEFINITIONS.

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

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

PERSON. Includes firms, joint adventures, part-nerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representa-tives, heirs, successors and assigns thereof. ('88 Code, Title I, Ch. 1, § 1.1)

PUBLIC PLACE. Any street, alley, park, canal, waterway, beach, public building, or any place of business or assembly open to the public or frequented by the public. ('88 Code, Title I, Ch. 1, § 1.1)

OFFICERS. The several officers' titles means such officers of the City. ('88 Code, Title I, Ch. 1, § 1.1)

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SHALL. The act referred to is mandatory.

STATE. The State of Michigan. ('88 Code, Title I, Ch. 1, § 1.1)

SUNDAYS and **LEGAL HOLIDAYS.** Whenever any act required to be done pursuant to the provisions of this code falls on a Sunday or legal holiday, that act shall be performed on the next succeeding business day. ('88 Code, Title I, Ch. 1, § 1.1)

WRITTEN or **IN WRITING.** May include any form of reproduction or expression of language. ('88 Code, Title I, Ch. 1, § 1.1)

§ 10.04 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the City Council or of the context of the same ordinance:

(A) **AND** or **OR.** Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.05 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect 1997 S-1

other provisions that can be given effect without the invalid provision or application.

§ 10.06 REFERENCE TO OFFICES; ACTS REQUIRED.

Whenever in accordance with the provisions of this code any specific act is required to be done by any designated officer or official of the City, such act may be performed by any duly authorized City officer or employee. ('88 Code, Title I, Ch. 1, § 1.2)

Cross-reference:

General provisions regarding officers of the City, see Charter, Ch. V

§ 10.07 OFFICIAL TIME.

Whenever time is referred to it means eastern standard time or the time officially in force in the city. ('88 Code, Title I, Ch. 1, § 1.1(12))

§ 10.08 REASONABLE TIME.

In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

§ 10.09 ORDINANCES REPEALED.

For provisions concerning the repeal of ordinances, see Section 7.4 of the Charter.

§ 10.10 CODE REVISIONS.

The City Clerk is directed and authorized to order or reorder the numbering of the sections of the City Code that have been affected by the enactment, repeal, or amendment of ordinances. (Ord. 259-2-89, passed 2-6-89)

§ 10.11 APPROVAL OF LEGAL DOCUMENTS.

The Mayor shall sign, the City Clerk shall attest to, the City Manager shall approve at to substance,

and the City Attorney shall approve as to form, all contracts and agreements requiring the assent of the City, unless otherwise provided for my law, the Charter, ordinance or the provisions of this code. (Ord. 259-2-89, passed 2-6-89)

§ 10.12 CONTENTS OF CODE.

This code contains all ordinances of a general and permanent nature of the City and includes ordinances dealing with municipal administration, utilities and services, parks and public grounds, streets and sidewalks, zoning and planning, food and health, businesses and trades, building, electrical, heating and plumbing regulations, police regulations [i.e., general regulations] and traffic regulations, and excludes ordinances granting franchises and special privileges, establishing sewer and other public improvement districts, providing for the construction of particular sewers, streets or sidewalks, or for the improvement thereof, and for the construction and improvement of other public works, authorizing borrowing of money or the issuance of bonds. The Zoning Ordinance of the City, being Ord. 72-8-69 of the City, as amended to the date of the adoption of this code, is adopted by reference in Title XV of this code and published by the City as a separate pamphlet, except as section numbers and references to other ordinances of the City are changed to conform to the code numbering system. The adoption of this code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this code. ('88 Code, Title I, Ch. 1, § 1.7)

§ 10.13 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (MCL § 335.301) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 131.10 CONTROLLED SUBSTANCES.

"Controlled substances," when used in this section, shall have the same meaning as set forth in state law.

(Ord. 10, passed 1-1-80)

Statutory reference:

For provisions concerning controlled substances, see MCL § 335.301 et seq.

§ 10.14 NOTICES SERVED BY THE CITY.

(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 this code, shall be served:

(1) By delivering the notice to the owner personally or by leaving the same at his residence, office or place of business with some person of suitable age and discretion; or

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

(3) By mailing the notice by regular mail to the last known address of the owner and posting the notice in some conspicuous place on the real property; or

(4) If the owner is unknown, by posting the notice in some conspicuous place on the premises at least five days before the act or action concerning which the notice is given is required or is to occur.

(B) 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 the officer to remove the notice.

(C) Notice regarding real property within the City may be made to an owner via first class mail to a local contact person designated by the owner as provided in § 151.21.

('88 Code, Title I, Ch. 1, § 1.9; Am. Ord. 511-04-03, passed 4-7-03; Am. Ord. 626-07-10, passed 7-6-10) Penalty, see § 10.99

§ 10.97 MUNICIPAL CIVIL INFRACTIONS.

(A) *Definition.* "Municipal civil infraction" means a civil infraction involving a violation of any of the following ordinances of the City:

(1) All of the ordinances within Title XV, including but not limited to Chapter 150 Building Regulations, Chapter 151 Housing Regulations, Chapter 152 Flood Hazard Area Construction, Chapter 153 Subdivision Regulations, and Chapter 154 Zoning Ordinance.

(2) Noise ordinance regulations specified in Title IX, §§ 90.15, 90.17, 90.18 and 90.19.

(3) Nuisance and litter provisions specified in Title IX, §§ 90.26, 90.27, 90.28, 90.30, and 90.31.

(4) Blight and junk ordinance regulations in Title IX, §§ 90.35, 90.36, 90.37, and 90.38.

(5) Radio and television interference ordinance regulations specified in Title IX, Sections 90.55, 90.56, and 90.57.

(6) All animal ordinance regulations in Title IX, Chapter 91.

(7) All park ordinance regulations in Title IX, Chapter 92, except § 92.01.

(8) All of the ordinance provisions in Title IX, Chapters 93, 94, and 95 pertaining generally to trees, crosswalks, driveways, sidewalks, and advertisements.

(9) All ordinance provisions for skateboards, roller skates, and bicycles in Title VII, Chapter 72.

(10) All garbage, rubbish, trash, and yard waste regulations in Title V, Chapter 50.

(11) All fire prevention regulations in Title IX, Chapter 96, and smoke detector regulations specified in Title XV, Chapter 151.

(12) Any other ordinance section or provision, the violation of which is designated specifically as a municipal civil infraction.

(B) *Violation.* A violation includes any act which is prohibited or made or declared to be unlawful or an offense by City ordinance, and any omission or failure to act where the act is required by City ordinance.

(C) *Authorized City Officials.*

(1) *Building Inspector.* The Building Inspector is designated as the authorized City official to issue municipal civil infraction citations for alleged violations of:

(a) The state construction code, International Property Maintenance Code, or any other code adopted by the City regulating the construction of buildings in the City.

(b) The International Property Maintenance Code or any other code adopted by the City regulating the minimum acceptable standards for the maintenance of existing buildings and structures.

(c) All other City ordinance housing or building regulations in Title XV, Chapter 151.

(d) City subdivision ordinance regulations in Title XV, Chapter 153.

(e) City zoning ordinance regulations, Title XV, Chapter 154.

(f) Nuisance and litter regulations specified in Title IX, Chapter 90, being §§ 90.15, 90.17, 90.18, and 90.19.

(g) Blight and junk regulations specified in Title IX, Chapter 90, being §§ 90.35, 90.36, 90.37 and 90.38.

(h) Garbage, rubbish, trash, and yard waste regulations in Title V, Chapter 50.

(i) Parking in a front yard area not improved or designated for parking of motor vehicles.

(2) *Zoning Administrator and Code Enforcement Officer.* The Zoning Administrator is designated as the authorized City official to issue municipal civil infractions for alleged violations of the City zoning ordinance. The Zoning Administrator and Code Enforcement Officer are designated as the authorized City officials to issue municipal civil infraction citations for the alleged violations of:

(a) City subdivision ordinance regulations, Title XV, Chapter 153.

(b) Nuisance, litter, blight and junk regulations specified in Title IX, Chapter 90, being §§ 90.15, 90.17, 90.18, 90.19, 90.35, 90.36, 90.37 and 90.38.

(c) The International Property Maintenance Code or any other code adopted by the City regulating the minimum acceptable standards for the maintenance of existing buildings and structures.

(d) Garbage, rubbish, trash, and yard waste regulations in Title V, Chapter 50.

(e) Parking in a front yard area not improved or designated for parking of motor vehicles.

(3) *Fire fighters.* All certified fire fighters within the City's Department of Public Safety are designated as authorized city officials to issue municipal civil infraction citations for alleged violations of fire prevention regulations specified in Title IX, Chapter 96, and smoke detector regulations in Title XV, Chapter 151, and housing regulations in Title XV, Chapter 151.

(4) *Police officers.* All certified police officers within the City's Department of Public Safety, and certified police officers from other jurisdictions assisting the Department of Public Safety, are designated as authorized city officials to issue municipal civil infraction citations for alleged violations of all city ordinances for which the penalty is not a misdemeanor.

(5) *Service Officers.* All Service Officers within the City Department of Public Safety designated by the Director of Public Safety to investigate disabled and inoperable motor vehicles are authorized city officials to issue municipal civil infraction citations for alleged violations of city ordinance § 90.70, Disabled and Inoperable Motor Vehicles.

(6) *Property Maintenance Inspectors.* All Property Maintenance Inspectors within the City Department of Neighborhood Services are authorized city officials to issue municipal civil infraction citations for alleged violations of city ordinance § 90.70, Disabled and Inoperable Motor Vehicles.

(D) *Basis for issuing municipal civil infraction citations.*

(1) An authorized city official can issue a municipal civil infraction citation upon witnessing a person violate an ordinance, or upon the official's investigation and reasonable cause to believe that a person is responsible for a municipal civil infraction. An authorized city official may issue a municipal civil infraction citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, the official has reasonable cause to believe the person is responsible for a municipal civil infraction and the City Attorney approves in writing the issuance of the citation.

(2) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting 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.

(3) The citation serves as the complaint in a municipal civil infraction action and may be filed either on paper or electronically.

(E) *Penalty.*

(1) The penalty for a municipal civil infraction shall be a fine of not less than \$25 dollars and not more than \$500, plus costs of not less than \$9 and not more than \$500. Costs may include all expenses, direct and indirect, to which the City has been put in connection with the municipal civil infraction up to the entry of judgment. The City may seek or employ all other remedies and sanctions available under state law for municipal civil infractions.

(2) The penalty for repeat offenses of the same ordinance provision within two years of a prior offense shall be a fine of not less than \$50 and not more than \$1,000, plus costs and all other remedies and sanctions available under state law for municipal civil infractions.

(3) Proof of a prior offense shall be established by a judgment, order, or abstract of the district court.
(Ord. 399-11-95, passed 11-20-95; Am. Ord. 428-10-97, passed 10-6-97; Am. Ord. 509-02-03, passed 2-3-03; Am. Ord. 676-07-14, passed 7-7-14)

§ 10.98 RESPONSIBILITY FOR PROHIBITED ACTS.

Whenever any act is prohibited by this code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. ('88 Code, Title I, Ch. 1, § 1.9)

§ 10.99 PENALTY.

(A) *General penalty.* Whenever in this code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this code or ordinance shall be punished by a fine not exceeding \$500 or imprisonment for a term not exceeding 90 days, or both, except whenever a specific penalty is herein otherwise provided and except as provided for civil infractions as set forth in § 10.97. ('88 Code, Title I, Ch. 1, § 1.5) (Am. Ord. 399-11-95, passed 11-20-95)

(B) *Continuing violations.* In addition to the penalty provided in division (A) of this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist. ('88 Code, Title I, Ch. 1, § 1.6)