**TITLE I: GENERAL PROVISIONS**

Chapter

 **10.** **GENERAL PROVISIONS**

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**10.01 HOW CODE DESIGNATED AND CITED.**

This code shall constitute and be designated as the The Village of Eau Claire Code, for which designation code of ordinances, codified ordinances, this code, or code may be substituted.

**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.

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

***ACT.*** Public Act 236 of 1961 being M.C.L.A.  600.101 et seq., as amended.

***AUTHORIZED VILLAGE OFFICIAL.*** A police officer, building inspector, or other designated official or employee of the village authorized by this code to issue municipal civil infraction citations or municipal civil infraction violation notices.

***BUREAU.*** The Village Municipal Violations Bureau, as established by this code.

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

***CODE.*** The Village of Eau Claire Code as designated in  10.01.

***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 is 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.

***COUNCIL.*** The Village Council of Eau Claire, Michigan.

***COUNTY.*** The County of Berrien, Michigan.

***JUVENILE.*** Any person under 17 years of age.

***MINOR.*** A person under 21 years of age.

***MUNICIPAL CIVIL INFRACTION.*** An act or omission that is prohibited by this code of the village, but which is not a crime under this code or any code, and for which civil sanctions including, without limitation, fines, damages, expenses, and costs may be ordered, as authorized by Public Act 236 of 1961, Ch. 87, being M.C.L.A.  600.101 et seq., as amended. A ***MUNICIPAL CIVIL INFRACTION*** is not a lesser included offense of a violation of this code that is a criminal offense.

***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 village 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 village official directing a person to appear at the Village Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of fines adopted by the village, as authorized under  8396 and 8707(6) of the Act.

***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 Village of Eau Claire, Michigan. Whenever, by the provisions of this code, any officer of the village 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.

***ORDINANCES.*** The ordinances of the village and all amendments thereto.

***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.

***STATE, THE STATE,*** or ***THIS STATE.*** The State of Michigan.

***VILLAGE.*** The Village of Eau Claire, Michigan.

(Ord. 2001‑6, passed 8‑20‑2001)

**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 catchline or in any heading or title to any chapter, subchapter, or division.

**10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.**

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

(A) Promising or guaranteeing the payment of money for the village, authorizing the issuance of any bonds of the village, any evidence of the villages indebtedness, any contract or obligations assumed by the village;

(B) Containing any administrative provisions of the Village 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 village;

(E) Making any appropriation;

(F) Levying or imposing taxes;

(G) Establishing or prescribing grades in the village;

(H) Providing for local improvements and assessing taxes therefor;

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

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

(K) Prescribing the number, classification, or compensation of any village 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; and

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

**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 these ordinances and not as new enactments.

**10.06 PRIOR RIGHTS, OFFENSES, AND THE LIKE.**

Any act done, offense committed, or right 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.**

(A) No ordinance or part of any ordinance heretofore repealed shall be considered re‑ordained or reenacted by virtue of this code, unless specifically reenacted.

(B) 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 Village of Eau Claire 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 Village of Eau Claire Code is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section reads as follows:.... The new section shall then be set out in full as desired.

**10.09 SUPPLEMENTATION OF CODE.**

(A) By contract or by village personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Village 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 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 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, non‑substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate divisions;

(2) Provide appropriate catchlines, headings, and titles for sections and other divisions of the code printed in the supplement, and make changes in catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other divisions 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 subchapter, this division, and the like, as the case may be, or to  \_\_\_\_\_ through \_\_\_\_\_ (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 non‑substantive 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.

**10.10 APPEARANCE TICKETS.**

The following public servants are hereby authorized to issue and serve appearance tickets with respect to ordinances of the village, as provided by Public Act 147 of 1968, being M.C.L.A.  764.9a through 764.9e, as amended, when the public servant has reasonable cause to believe that a person has committed an offense in violation of a village ordinance:

(A) Building Inspector;

(B) Code Enforcement Officer; and

(C) Fire Chief.

**10.11 SEPARABILITY OF PROVISIONS.**

Each section, division, 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.

**10.99 GENERAL PENALTY.**

(A) Unless a violation of any ordinance of the village is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(B) 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 by this code or any ordinance.

(C) 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 Chapter 87 of the Act and other applicable laws.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this code or any other ordinance, the civil fine for a violation shall be not less than $25, plus costs and other sanctions, for each infraction.

(2) 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, the term ***REPEAT OFFENSES*** means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any six‑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.

(a) The fine for any offense which is a first repeat offense shall be no less than $100, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than $250, plus costs.

(D) A violation includes any act which 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.

(E) 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.

(F) In addition to any remedies at law, the village 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 village ordinance.

(Ord. 2001‑6, passed 8‑20‑2001)