

Bay City Ordinances

ORDINANCE NO. 586

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING PRIOR ORDINANCE #500.

The City of Bay City ordains as follows:

Section 1. Definitions.

1.1. Council. The common council of the City of Bay City.

1.2. Dangerous Animal. An animal normally considered as wild or exotic which have the ability to harm or to frighten people. Dangerous animals included, but are not necessarily limited to, the following:

- 1.2.1. Venomous snakes, capable of inflicting serious physical harm or death to human beings;
- 1.2.2. Non-human primates and prosimians;
- 1.2.3. Non-domesticated species of canines and their hybrids, including wolf and coyote hybrids;
- 1.2.4. Crocodiles, alligators, caiman and gavials;
- 1.2.5. Non-domesticated species of cats, including; but not limited to: lions, tigers, lynx, leopards, cougars, bobcats and wolverines.

1.3. Nuisance. A thing, condition, substance or activity which is injuring or endangering the public peace, health, safety or welfare; including, but not limited to, the enumerated things, conditions, substances and activities specified in this ordinance.

1.4. Person in charge of property. The owner, an agent, occupant, lessee, contract purchaser, or other person having possession or control of property.

1.5. Person responsible. The person responsible for abating a nuisance shall include:

- 1.5.1. The owner of the property.
- 1.5.2. The person in charge or control of the property.
- 1.5.3. The person who caused to come into or continue in existence a nuisance as defined in this ordinance or any other ordinance of this City.

1.6. Public place. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

Animals

Section 2. Animals.

2.1. No owner or person in charge of an animal which is dangerous to the public health or safety shall allow the animal to enter or remain on any public place.

2.2. No owner or person in charge of domesticated livestock or fowl shall allow it to be at large in the City.

2.3. A dangerous animal exposed in public, or an animal listed in subsection (2.2) which is at large in the City, shall be taken into custody by the code enforcement officer or other enforcement agency.

2.4. A dangerous animal exposed in public or an animal listed in subsection 2.2 shall be held as the code enforcement officer or other officer shall direct. The animal shall not be returned to its owner/person in charge until the reasonable costs of holding it have been paid and the City Recorder has determined that proper precautions have been taken to insure the public health and safety. If, after 10 days, the owner does not claim the animal or pay the costs incurred in holding it, it shall become the property of the City, and shall be sold or humanely destroyed as the code enforcement officer shall direct.

2.5. A dangerous animal running at large, which, because of fierceness of disposition or diseased condition, is too hazardous to apprehend, may be destroyed by a peace officer or a person acting in defense of himself, his family or another person.

Section 3. Removal of Carcasses.

No person shall permit an animal carcass owned or controlled by the person to remain upon public property, or to be exposed on private property, for more than 24 hours from the time of death.

Nuisances Affecting Public Health

Section 4. Nuisances Affecting Public Health.

No owner or person in charge of property shall cause or permit on such property any nuisance affecting public health, nor shall any person cause on any property, public or private, any nuisance affecting public health. The following

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are nuisances affecting public health and may be abated as provided in this ordinance:

4.1. **Offensive Substances.** No substance, human or animal excrement, sewage, industrial waste or any putrid, nauseous, decaying, deleterious, offensive, hazardous or dangerous substance shall be allowed in a stream, well, spring, brook, ditch, pond, river or other inland or tidal waters within the City, nor shall it be allowed where the placing of such substances in such position that high water or natural seepage will carry the same into such waters; nor shall it be allowed to pool or remain on the surface of any land, whether it be in public or private ownership. Commercial practices utilized in conjunction with farm use within the City is exempt from this provision so long as generally accepted farming practices are observed.

4.2. **Privies.** An open vault or privy.

4.3. **Surface drainage.** Drainage of liquid wastes, commonly known as “gray water” from any premises.

4.4. **Cesspools.** Cesspools or septic tanks.

4.5. **Odors.** Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.

4.6. **Slaughterhouses, etc.** A slaughterhouse or tannery.

4.7. **Animal Cages.** A barn, stable or corral, pen, chicken coop, rabbit hutch, pigsty or other place where animals are caged or housed, which is in an unsanitary condition or creates an offensive odor.

4.8. **Obstruction of drains.** The obstruction or interference with the flow of water in any ditch, drain or catch basin constructed in a public way.

Nuisances Affecting Public Safety

Section 5. Abandoned Refrigerators.

No person shall leave in a place accessible to children an abandoned or discarded icebox, freezer, refrigerator or similar container without first removing the door.

Section 6. Attractive Nuisances.

6.1. No person in charge of property shall permit thereon:

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a. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.

b. Lumber, logs or piling places or stored in a manner so as to be attractive, dangerous and accessible to children.

c. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

6.2. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 7. Dangerous Excavations.

7.1. No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.

7.2. Any obstruction on a street, sidewalk, public way or pathway commonly used by the public shall be marked by red or yellow warning lights during the hours of darkness. It shall be the responsibility of the person creating, maintaining or in charge of such obstruction to insure the installation and operation of the warning lights.

Section 8. Snow and Ice Removal.

8.1. No owner or person in charge of abutting property shall allow snow or ice to remain on the sidewalk abutting his property for a period longer than the first two hours of daylight after the snow has fallen.

8.2. No owner or person in charge of abutting property shall allow ice to remain on the sidewalk for more than two hours of daylight after the ice has formed unless covered with ash, sand, salt or other suitable materials.

8.3. No person shall place or deposit snow, except snow removed from public sidewalks, on any parking strip or street.

Section 9. Trees.

9.1. No owner or person in charge of abutting property shall allow any brush, bushes, trees, limbs, shrubbery, flowers or other growth, whether grown for food, fuel, shade or ornamentation, to project over a sidewalk at an elevation of less than eight feet above the level of the sidewalk, or over a street at an elevation of less than 18 feet above the level of the public way.

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9.2. No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

9.3. A tree is considered a hazard if its condition would allow the tree to fall during a usual wind and it is foreseeable that damage would result to a person or property from the fall of the tree.

9.4. Nothing in this ordinance shall be deemed to impose any liability upon the City, its officers or employees. Nothing in this ordinance shall be deemed to relieve the owner or occupant of any private property from the duty to keep trees and

shrubs upon private property or under the owner or occupier's care and control in a safe condition.

Section 10. Grass, Shrubbery, Weeds and Noxious Growth.

No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or in the case of weeds or other noxious vegetation, from maturing or from going to seed.

Section 11. Junk and Debris.

11.1. No landowner or person leasing, occupying or having charge or possession of any property in the City shall keep or cause to be deposited in a front yard or side yard any of the following for a period of more than 10 consecutive days:

11.1.1. Rubbish or junk including but not limited to refuse, garbage, glass, scrap metal, paper products, scrap lumber, concrete or asphalt chunks, cans and discarded tires.

11.1.2. Abandoned, discarded or unused furniture, machinery, toys, stoves, sinks, toilets, cabinets or other fixtures, appliances or equipment or any parts thereof.

11.1.3. Combustible material likely to become easily ignited or debris resulting from any fire or any material which constitutes a fire hazard, as defined in the Uniform Fire Code.

11.1.4. Inoperative, abandoned, or dismantled motor vehicles, trailers, campers and boats or any parts thereof.

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11.2. Any landowner or person leasing, occupying or having charge or possession of any property in the City may have the items listed in Section 11.1 on their property so long as said junk and debris is enclosed so as to be wholly screened from public view.

11.3. The landowner or person leasing, occupying or having charge or possession of any property in the City shall be responsible for removing refuse, junk, debris, trash and all items described in Section 11 herein from the premises before it becomes a hazard, nuisance or causes an unsanitary or offensive conditions.

11.4. This Section 11 shall not apply to:

11.4.1. Junk and debris kept in a duly licensed junkyard, automobile wrecking house, automobile sales lot or automobile repair shop.

11.4.2. Firewood neatly stacked.

11.4.3. Construction debris occurring pursuant to a valid building permit.

Section 12. Scattering Rubbish.

No person shall deposit upon public or private property any kind or rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal or vehicle traveling upon a public way.

Section 13. Fences.

13.1. No person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed wire to remain as part of a fence along a sidewalk or public way, except such wire may be placed above the top of other fencing not less than six feet, six inches high.

13.2. No person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

13.3. No person in charge of property shall construct, maintain or operate an electric fence within 10 feet of a property line unless a solid barrier fence is located on the outer perimeter of the electric fence.

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Section 14. Surface Waters, Drainage.

14.1. No person or owner in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

14.2. The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or drainage system so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

Nuisances Affecting the Public Peace

Section 15. Notices and Advertisements.

15.1. No person shall affix or cause to be affixed a placard, bill, advertisement or poster upon real or personal property, public or private, without first securing permission from the owner or person in control of the property. This section shall

not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the City regulating the use of and the location of signs and advertising.

15.2. No person shall scatter, distribute or cause to be scattered or distributed on public or private property any placards, advertisements or other similar material.

15.3. This section does not prohibit the distribution of advertising material during a parade or approved public gathering.

Abatement Procedure

Section 16. Declaration of Nuisance; General Nuisance.

16.1. The acts, conditions or objects specifically enumerated and defined in Sections 2 through 15 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Section 19 through 24 of this Ordinance.

16.2. In addition to the nuisances specifically enumerated within this ordinance, every other thing, substance, or act which is determined by the City Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance and may be abated as provided in this ordinance.

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Section 17. Abatement Notice.

17.1. Upon receiving a written complaint or upon the Council's own motion, the Council may determine that a nuisance as defined in this or any other ordinance of the City exists, the Council shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner/person in charge of the property to abate the nuisance.

17.2. At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at his/her last known address.

17.3. The notice to abate shall contain:

17.3.1. A description of the real property, by street address or otherwise, on which the nuisance exists.

17.3.2. A direction to abate the nuisance within a reasonable time from the date of the notice, but not more than 30 days.

17.3.3. Description of the nuisance.

17.3.4. A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement shall be a lien against the property and a further statement that failure to abate the nuisance may warrant imposition of a fine.

17.3.5. A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the City Recorder within ten days from the date of the notice.

17.4. Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file a certificate stating the date and place of the mailing and posting.

17.5. An error in the name or address of the owner or person in charge of the property or the use of name other than that of an owner or other person shall not make the notice void, and in such case, the posted notice shall be sufficient.

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Section 18. Abatement by the Person Responsible.

18.1. Within the time allowed after posting and mailing of such notice, as provided in Section 19, the person responsible shall remove the nuisance or show cause that no nuisance exists.

18.2. A person responsible, protesting that no nuisance exists, shall file with the City Recorder a written statement which shall specify the basis for so protesting.

18.3. The statement shall be referred to the Council as a part of the Council's regular agenda at its next succeeding meeting. At the time set for the consideration of the abatement, the owner or other person may appear and be heard by the Council, and the Council shall thereupon determine whether or not a nuisance in fact exists, and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.

18.4. If the Council determines that a nuisance does in fact exist, the person responsible shall within the time specified after the council determination abate the nuisance.

Section 19. Joint Responsibility.

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance, or for the costs incurred by the City in abating the nuisance.

Section 20. Abatement by the City.

20.1. If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.

20.2. The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

20.3. The City shall keep an accurate record of the expenses incurred in abating the nuisance, and in addition, there shall be a surcharge of 20 percent of incurred expenses for administrative overhead.

Section 21. Assessment of Costs.

21.1. The City, by registered or certified mail, postage prepaid, shall forward to the owner and/or person in charge of the property a notice stating:

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21.1.1. The total cost of abatement, including the administrative overhead.

21.1.2. The cost as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of notice.

21.1.3. If the owner or person in charge of the property objects to the cost of the abatement as indicated, that person may file a notice of objection with the City Recorder not more than ten days from the date of the notice.

21.2. Upon the expiration of ten days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs to be assessed.

21.3. If the costs of the abatement are not paid within thirty days from the date of the notice, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall thereupon be entered in the docket of City liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

21.4. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at existing legal rate of interest. The interest shall commence to run from date of the entry of the lien in the lien docket.

21.5. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

General

Section 22. Summary Abatement.

The procedure provided by this ordinance is not exclusive, but is in addition to the procedure provided by other ordinances; and the health officer, the chief of the fire department or the code enforcement officer or other person designated by the Council, may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

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Section 23. Penalties.

Any persons found guilty of violating any provision of this ordinance shall be punishable as a Class A violation, for each violation, as determined by the Tillamook County Justice Court, plus court costs. *Modified 05/08/01 by Ordinance 591*

Section 24. Separate Violations.

24.1. Each day's violation of a provision of this ordinance constitutes a separate offense.

24.2. The abatement of a nuisance is not a penalty for violating this ordinance but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within the time period specified by the Council, or if a written protest has been filed, then within ten days of the Council determination that a nuisance exists, will excuse the person responsible from the imposition of any fine under Section 23 of this ordinance.

Section 25. Severability.

The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections of subsections.

Section 26. Repeal.

Ordinance No. 500 is hereby repealed in its entirety.

PASSED and ADOPTED by the City Council this 12th day of September, 2000 and APPROVED by the Mayor this 12th day of September, 2000.

By: /s/ James A. Cole, Jr., Mayor
James A. Cole, Mayor

ATTEST: /s/ Linda Dvorak
Linda Dvorak, City Recorder

First Reading: September 12, 2000
Second Reading: September 12, 2000
Adoption: September 12, 2000
Ayes: 4
Nays: 0
Absententions: 0