

ORDINANCE NO. 348

AN ORDINANCE FOR THE PURPOSE OF AUTHORIZING THE SHORT FORM UNIFORM COMPLAINT AND CITATION METHOD FOR ENFORCING PROVISIONS OF THE CITY OF BAY CITY ORDINANCES.

THE CITY OF BAY CITY ORDAINS AS FOLLOWS :

Section 1. Short Form Citations Authorized in Certain Cases.

(A) A citation conforming to the requirements of this section may be used by any peace officer, the fire chief, the building inspector, the public works supervisor, any member of the City Council of Bay City, and other persons designated by the City of Bay City to enforce any of the provisions of any ordinance of the City of Bay City.

(B) The citation shall consist of at least two parts. Additional parts may be inserted for administrative purposes by departments charged with the enforcement of the ordinances. The required parts are:

- (1) The complaint.
- (2) The summons.

(C) Each of the two parts shall contain the following information, or blanks in which such information shall be entered:

- (1) The name of the court and the court's docket or file number.
- (2) The name of the person, persons, or corporation cited.
- (3) The offense charges; the time and place; the date on which the citation was issued; the name of the complainant;

and, in the case of zoning violations, the designation of the zone in which the violation occurred.

(4) The hour and date when the person cited is to appear in court.

(5) The security release, if any, fixed for the offense.

(D) The complaint shall contain a form of verification by the complainant to the effect that he swears that he has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to ordinance. The complainant, whether he is an officer or a person charged with enforcement of the regulations and ordinances, shall make verification before the Justice of the Peace or a Clerk of the Justice Court and this action shall be entered in the court record.

(E) The summons shall also contain notice to the person cited that a complaint will be filed in the Justice of the Peace Court for the County of Tillamook.

(F) Nothing in this section shall be construed to prevent the use of a complaint charging a violation of ordinance in the form and manner otherwise prescribed by law for criminal complaints, and a person or persons may be charged jointly on such a complaint where otherwise permitted by law.

Section 2. Contents of the Summons and of the Complaint.

(A) A summons issued pursuant to Section 1 is sufficient if it contains the following:

(1) The name of the court; the name of the person, persons, or corporation cited; the date on which the citation was issued; the name of the complainant; and the time at which the defendant is to appear in court.

(2) A statement or designation of the offense in such

manner as can be readily understood by a person making a reasonable effort to do so; and the date and place the offense is alleged to have occurred. (3) A notice to the person or persons cited that:

a complaint will be filed with the court based on the offense.

(4) The amount of security release, if any, fixed for the offense.

(B) A complaint in an alleged violation of an ordinance under Section 1 is sufficient if it contains the following:

(1) The name of the court; the name of the city in whose name action is brought; and the name of the defendant or defendants.

(2) A statement or designation of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so; and the time and place of the alleged offense. (3) A verification as provided in subsection (5) of Section 1.

Section 3. Delivery of the Summons and Complaint.

The officer or person issuing the citation shall cause the summons to be delivered to the person cited or to an officer of the corporation, if a corporation is cited, and shall cause the complaint thereafter to be delivered to the court.

Section 4. Appearance of Defendant Return of Summons, Security

Release in Lieu of Appearance.

Defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with the security amount set forth in the

summons, enclosing therewith a request for a hearing, or a statement of matters in explanation or mitigation of the offense, or the executed appearance, waiver of hearing and plea of guilty appearing on the summons.

Section 5. Effect of Defendant's Written Statement.

If a defendant has submitted to the court a written statement with his security release as provided in Section 4, it constitutes a waiver of hearing and a consent to judgment by the court, declaring a forfeiture of security on the basis of such statement, and any testimony or written statement of the arresting officer or either witnesses which may be presented to the court. If the defendant requests a hearing or if, pursuant to Section 6, the court directs that a hearing be had, the court shall fix the date and time for hearing and unless notice is waived, shall, at least five (5) days in advance of the hearing, mail to the defendant notice of the date and time so fixed.

Section 6. Judgment.

In any case, the court may direct that a hearing be held. Otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the security amount deposited by the defendant, and remit to the defendant any amount by which the security exceeds the fine. No sentence to jail may be imposed, nor any fine imposed in excess of the security deposited by the defendant, unless a hearing is held.

Section 7. Warrant of Arrest When Defendant Fails to Comply.

If a person cited fails to comply with the provisions of Section 4, or if he fails to appear at any time fixed by the

court, a warrant for his arrest may be issued. No warrant of arrest may be issued after a period of sixty day (60) days from the entry of any order declaring forfeiture of security. Unless a warrant has been issued before the expiration of that period, the order of forfeiture shall be deemed a final disposition of the case. Nothing herein shall be construed to prevent the issuance of a warrant of arrest on the filing of a sworn complaint complying in all other respects with the provisions of the Justices Code and charging a violation of ordinance, nor the arrest of a person violating any ordinance in the presence of the officer or citizen making the arrest.

Section 8. The Mayor of the City of Bay City and the Recorder of the City of Bay City are herein authorized to enter into an agreement with the County of Tillamook in accordance with ORS 190.010 et seq for the purposes of obtaining the services of a Justice Court for enforcement of the ordinances of the City of Bay City. The ordinances of the City of Bay City shall be enforced in the Justice Court of Tillamook County and the City shall be represented by the City Attorney. All fines shall be divided in accordance with ORS 221.315.

Passed and adopted by the City Council this 22nd day of
January, 1976.

Approved by the Mayor this 22nd day of January, 1976.

/s/ Albert M. Griffin
Albert M. Griffin, Mayor

/s/ E.M. Crossley
E.P. Crossley, City Recorder

AGREEMENT

WHEREAS the City of Bay City desires to enforce their ordinances in the justice Court for Tillamook County, and

WHEREAS the County of Tillamook is agreeable to provide the services of the justice Court,

IT IS HEREBY MUTUALLY AGREED to the following:

1. The City of Bay City may enforce all their duly adopted ordinances in the Justice Court for Tillamook County, Oregon, pursuant to Chapter 713, Oregon Laws, 1975.
2. All fines levied and collected will be divided in accordance with ORS 221.315.
3. The City Attorney will represent the City of Bay City in all proceedings before the Justice Court.
4. The term of this agreement is perpetual.
5. Each party has a right to terminate this agreement, by giving the other party ninety (90) days written notice.

DATED this 23rd day of February, 1976.

CITY OF BAY CITY

TILLAMOOK COUNTY COMMISSIONERS

/s/ Albert M. Griffin
Albert M. Griffin, Mayor
/s/ E.M. Crossley
E.M. Crossley, City Recorder

/s/ F.E. Knight
/s/ R.F. Brennan
/s/ Chas D Bailey