BAY CITY ORDINANCES
ORDINANCE NO. 666

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING PRIOR ORDINANCE #649.

The City Council of the City of Bay City ordains as follows:

Section 1. Definitions.

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

1.2 Chronic Nuisance. Any condition(s) on any real property which has resulted in three violation letters issued by the City within any 12 month period.

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

1.3.1. Venomous snakes, capable of inflicting serious physical harm or death to human beings;
1.3.2. Non-human primates and prosimians;
1.3.3. Non-domesticated species of canines and their hybrids, including wolf and coyote hybrids;
1.3.4. Crocodiles, alligators, caiman and gavials;
1.3.5. Non-domesticated species including; but not limited to: lions, tigers, lynx, leopards, cougars and bobcats;
1.3.6 Raccoons, wolverines and weasels;
1.3.7 Any other animal generally considered dangerous or as a pest or which has threatened or attacked persons or domesticated pets within the City of Bay City.

1.4. 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.

1.5. Person in charge or control of property. Any person who has titled ownership, an occupant or renter residing on the property, a developer, contractor or business operator who is developing, building or operating a business on the property and allows the violation of this ordinance to continue or any agent, occupant, lessee, contract purchaser, or other person having possession or control of property.

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

1.6.1. The owner of the property.

1.6.2. The person in charge or control of the property.

1.6.3. 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.

1.7. Public place. A building, right of way, park, property, place or accommodation, whether publicly or privately owned, whether improved or unimproved, available to the general public.

Animals

Section 2. Animals. Dangerous animals, as defined above, are prohibited within the City limits of the City of Bay City.

2.1. No owner or person in charge or control of a dangerous animal, as defined herein, 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 No owner or person in charge of property shall feed or keep food available out of doors, where it can be reached by raccoons, rats or other nuisance type animals.

2.4. 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.

2.5. 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 or control until the reasonable costs of holding the animal have been paid to the City and the City Recorder has determined that proper precautions have been taken to ensure 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, humanely destroyed or otherwise disposed of as the code enforcement officer shall direct.

2.6. 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 by the code enforcement officer.

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 or control of property shall cause or permit on such property any nuisance adversely affecting public health or safety, nor shall any person cause on any property, public or private, any nuisance adversely affecting public health or safety. The following are nuisances adversely affecting public health or safety 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 are exempt from this provision so long as generally accepted farming practices are observed.

4.2. Human Remains. No burial of human remains, whether cremated or non-cremated, is allowed within the City, other than in designated and approved cemeteries.

4.3. Privies. An open vault or privy.

4.4. Surface drainage. Drainage of liquid wastes, commonly known as "gray water" from any premises.

4.5. Cesspools. Cesspools or septic tanks.

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

4.7. Slaughterhouses, etc. A slaughterhouse or tannery.

4.8. 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.

4.9. Obstruction of drains. The obstruction or interference with the flow of water in any ditch, drain or catch basin located in a public right of way or on public property.

4.10 Insectaries. Insectaries of any kind for commercial purposes are not allowed within the City. An insectary does not include bee hives or bee keeping within the City.

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 or appliance without first removing the door.

Section 6. Attractive Nuisances.

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

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

6.1.2. Lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children.

6.1.3. 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 or control 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 ensure the installation and operation of the warning lights.

7.3 No excavations shall be done in a public right of way or street unless permitted or authorized by the Bay City Public Works Superintendent.

Section 8. Snow and Ice Removal.

8.1. No owner or person in charge or control 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 or control 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.

Section 9. Public Rights of Way.

9.1 No person shall place bushes, trees, structures including park benches, play structures, storage sheds and animal shelters or coops, unless a license is first obtained upon approval of the City Council.

9.2 No person shall obstruct, partially or fully, passage of any person or vehicle on a public right of way, whether improved or unimproved. Obstruction includes, but is not limited to: planting of hedges, ropes, barriers, fences, cement blocks, storing of disabled equipment or vehicles or any other activity which inhibits the free movement of a person walking or, if improved, riding in a vehicle over the right of way.

Section 10. Trees.

10.1. 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.

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

10.3. A tree is considered a hazard if its condition would allow the tree to fall during winds normally experienced in the area and it is foreseeable that damage would result to a person or other property from the fall of the tree.

10.4 No person shall plant trees or bushes over water lines or sewer lines servicing their property, or in close proximity to any fire hydrants where the plant growth would inhibit use of the hydrant.

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

Section 11. Grass, Shrubbery, Weeds and Noxious Growth.

No owner or person in charge or control 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 or control 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 12. Junk and Debris.

12.1. No landowner or person leasing, occupying or having charge or possession of any property in the City shall keep or cause to be deposited on their property, which is visible from the street, any of the following, for a period of more than 10 consecutive days, without screening:

12.1.1. 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.

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

12.1.3. 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.

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

12.1.5 Any rebuilding of vehicles or engines of any kind.

12.2. Any landowner or person leasing, occupying or having charge or control of any property in the City may have the items listed in Section 12.1 on their property, so long as said junk and debris is enclosed so as to be wholly blocked from public view by approved screening, referenced in the City's Development Ordinance.

12.3. 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 12 herein from the premises before it becomes a hazard, nuisance or causes unsanitary or offensive conditions.

12.4. This Section 12 shall not apply to:

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

12.4.2. Firewood neatly stacked.

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

Section 13. Scattering Rubbish.

No person shall deposit upon public or upon private property any kind of 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 14. Fences.

14.1. No person in charge or control of property shall construct or maintain a barbed-wire or razor-wire fence thereon, or permit barbed or razor-wire fences to remain as part of a fence along a sidewalk or public way.

14.2. 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.

14.3 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.

Section 15. Surface Waters, Drainage and Culverts.

15.1. No person or owner in charge or control of a building or structure shall direct or redirect rainwater, wetlands, streams or intermittent water sources onto another person's property, or onto a public street or public sidewalk or to flow across the public sidewalk, other than incidental runoff.

15.2. The owner or person in charge or control 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 public sidewalk or diverted onto neighboring property.

15.3 The owner or person in charge or control of property shall not remove snow or ice from their property and cast it or deposit it onto City property or onto the property of another.

15.4 The owner or person in charge or control of property shall not fill or divert any natural drainage ways existing on their property, unless authorized by the City through a permitting process.

15.5 The owner or person in charge or control of property shall not install a culvert on their property which drains water or diverts water onto the City right of way, other than in designated drainage ditches within the City right of way, without authorization by the City through a permitting process for proper placement and for proper sizing.

15.6 The owner or person in charge or control of property shall not cover any manholes with dirt or plantings of any kind and shall leave the manhole cover clearly visible from the public right of way.

Nuisances Affecting the Public Peace

Section 16. Notices and Advertisements.

16.1. This provision only covers signage not covered under the City's sign ordinance, if any. No person shall affix or cause to be affixed a placard, bill, notice, advertisement poster or sign of any kind upon real or personal property, public or private, without first securing permission from the owner or person in control of the property. All such temporary placards, bills, notices, advertisement posters or signs of any kind shall be removed within 2 hours after the close of the event being advertised. 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.

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

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

Abatement Procedure

Section 17. Declaration of Nuisance; General Nuisance.

17.1. The acts or conditions specifically enumerated and defined in Sections 2 through 16 are declared public nuisances; and such acts or conditions may be abated by any of the procedures set forth in Section 18 through 25 of this Ordinance.

17.2. 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, or any of its citizens, is declared a nuisance and may be abated as provided in this ordinance.

Section 18. Abatement Notice.

18.1. 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. The Council may assess a fine in the event that the nuisance is not abated within the time allowed by the Council.

18.2. 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.

18.3. The notice to abate shall contain:

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

18.3.2. A description of the nuisance.

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

18.3.4. A statement as to whether or not a fine will be imposed if the nuisance is not timely abated, how much the fine will be, whether it is a daily or a one-time fine and a statement that the fine may be avoided by timely compliance with the abatement notice.

18.3.5. A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement, together with any fines imposed by the Council, shall become a lien against the property.

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

18.4. 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.

18.5. An error in the name or address of the owner or person in charge or control 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.

Section 19. Abatement by the Person Responsible.

19.1. Within the time allowed after posting and mailing of such notice, as provided in Section 18, the person responsible shall abate the nuisance or show cause that no nuisance exists.

19.2. Within 10 days of the posting of the notice under Section 18.1, a person in charge or control of the property may protest that no nuisance exists, by filing with the City Recorder a written statement which shall specify the basis for so protesting, state the name of the person protesting and provide contact information for said person.

19.3. The statement shall be referred to the Council as a part of the Council's regular agenda at its next succeeding meeting. At the hearing 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. If the Council determines that a nuisance exists, the Council shall make a determination as to when the person responsible shall abate the nuisance. Notice of the Council's

determination shall be mailed to the person responsible for the abatement or the person apparently in charge of the property.

19.4. If the Council determines that a nuisance does in fact exist, the person responsible, or who is apparently in charge of the property, shall, within the time specified after the Council determination, abate the nuisance.

Section 20. Joint Responsibility.

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

Section 21. Abatement by the City.

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

21.2. 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, all without any trespass occurring. In the event that additional persons are necessary to go onto the property to abate the nuisance, all persons authorized by the officer charged with abatement shall have the right to enter into or upon the property to investigate or cause the removal of a nuisance, all without any trespass occurring.

21.3. The City shall keep an accurate record of the expenses incurred in abating the nuisance, including the City's attorney's fees, staff time and out-of-pocket expenses, and in addition, there shall be a surcharge of 20 percent of the total costs to the City, for administrative overhead.

Section 22. Assessment of Costs.

22.1. 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:

22.1.1. The total cost of abatement, including the administrative overhead, and attorney's fees.

22.1.2. 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.

22.1.3. If the owner or person in charge or control 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.

22.2. 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.

22.3. 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 lien docket of the City; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated by the City.

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

22.5. 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.

Section 23. Summary Abatement/Abatement of Chronic Nuisances.

23.1 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, health or property. Further, these procedures shall also apply if the property which is a chronic nuisance, as defined in Section 1.2 herein.

23.2 Summary abatement may be done immediately by the City, without notice by the City to the property owner or person in charge, in the event of imminent danger.

23.3 In the event of a non-emergency chronic nuisance, the City shall post the property with the notice as referenced in Section 18.3 herein, however, the notice shall provide for 10 calendar days for the owner or person in charge to abate the nuisance.

23.4 Thereafter, the City may proceed with abatement in accordance with Section 21, except that the City staff may proceed with the abatement without further Council action.

Section 24. Penalties.

A violation of this Ordinance constitutes a Class A Violation, as determined by the Tillamook County Justice Court. This penalty shall be in addition to and unaffected by any other remedy taken by the City.

Section 25. Separate Violations.

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

25.2. As an additional remedy, the City may impose an additional fine of the greater of $250.00 per day per violation or the cost of any expense, loss, cost of repair, or damage occasioned by the City, whichever is greater, including the cost of the City's staff time and the City's attorney's fees.

25.3. The abatement of a nuisance is not a penalty for violating this ordinance but is an additional remedy. The imposition of a fine, or treatment of the nuisance as a Class A violation does not relieve a person of the duty to abate the nuisance.

25.4. The City shall have all other remedies available to it allowed by law. The remedies provided in this Ordinance are nonexclusive and the City may seek and impose more than one remedy for any nuisance, in the cumulative.

Section 26. 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 27. Repeal.
Ordinance No. 649 is hereby repealed in its entirety.

PASSED and ADOPTED by the City Council this 14th day of July 2015 and APPROVED by the Mayor this 14th day of July, 2015.

By: _____
Shaena E. Peterson, Mayor

ATTEST: _____
Linda Downey, City Recorder

First Reading: July 14, 2015

Second Reading: July 14, 2015

Adoption: July 14, 2015
Ayes: 5
Nayes: 1
Abstentions: 0