

Ordinance No. 2015-10

Be It Ordained by the City of Bay City:

That the Code of Ordinances of the City of Bay City, Chapter 54, Environment, Section 54-121 through Section 54-131 be added to read as follows:

Sec. 54-121. Purpose and Intent.

The purpose of this section is to protect the health, safety and welfare of the citizens of Bay City by preventing blight, protecting property values, and remedying the nuisance.

Sec. 54-122. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Enforcing officer means the code official or other designee of the city manager.

Graffiti means any mark or marks on any surface, including, but not limited to, writing, inscribing, drawing, tagging, sketching, spray-painting, painting, etching, scratching, carving, engraving, scraping, or attaching placed on any building, accessory building, fence or other structure, or surface by a person other than the owner or someone authorized by the owner.

Outside surface or structure means any surface or structure that is visible from a street, sidewalk, alley or other public or neighboring private property.

Responsible party means the owner, occupant, lessee or manager of a property.

Sec. 54-123. Removal of Graffiti.

No person who owns, occupies, leases or manages property shall permit or allow any graffiti to be or remain on any outside surface or structure on the property for a period longer than ten (10) days.

Sec. 54-124. Notice to Abate.

- (a) Whenever the enforcing officer determines that graffiti exists on any structure in the city, the enforcing officer shall issue a courtesy notice, without a fee, to the responsible party that explains graffiti is a nuisance and the responsibility for clean-up. The courtesy notice shall detail the offense, suggest ways in which to abate the graffiti and notify the responsible party that a follow-up inspection will

be completed in ten (10) days.

- (b) The enforcing officer shall schedule a reinspection of the property ten (10) days from the date of the letter.
- (c) If the graffiti has not been removed upon reinspection of the property, a Notice of Violation letter clearly notifying the responsible party of the violation will be sent to the responsible party giving the responsible party ten (10) days to remove the graffiti or to contact the enforcing officer with a timetable for the removal of the graffiti.
- (d) The Notice of Violation referenced in this section may be served by personal service or by posting on the property and by first-class mail. First-class mail shall be deemed given the next day after mailing and shall be addressed as follows:
 - (1) In the case of a property owner, to the last known address of such owner taken from the tax records of the city.
 - (2) In the case of an occupant or a premises lessee, to the mailing address of such premises.
 - (3) In the case of a property manager, to the mailing address of such manager on file with the city.

Sec. 54-125. Removal Standard.

All removal and cover-up of graffiti must be accomplished in such a manner that the final condition of the exterior structure is in good condition and repair as specified by the Property Maintenance Code.

Sec. 54-126. Penalty.

A responsible party who fails to remove graffiti within the time limit set forth in the notice required under section 54-124 is responsible for a Class H municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in section 2-428 of this code and any other relief that may be imposed by a court having jurisdiction. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

Sec. 54-127. - Hardships.

Each notice given under section 54-124 shall advise the responsible party of the availability of the relief under this section. Applications for relief under this section shall be submitted to the city manager in such form and with such proofs of ownership, repeat occurrences and related factors as may be required to determine whether the applicant is entitled to assistance. The application is due within ten (10) days following the date the

city mails, posts or delivers a notice under section 54-124.

Upon review the city manager may cause the graffiti to be abated without cost if the responsible party demonstrates that the property for which notice of violation has been issued has been the subject of at least two (2) prior graffiti incidents (evidenced by either notices provided pursuant to this article or bona fide police reports) during the preceding one hundred eighty (180) days, that the responsible party complied with the requirements of this article by abating the prior graffiti within ten (10) business days of the date of the applicable notice or police report and that the city has abated the property no more than twice in the preceding year.

Sec. 54-128. Abatement by City.

If the responsible party fails to abate a nuisance under sections 54-123 and 54-125 within the time limit set forth in the notice to abate, then an enforcing officer may abate the nuisance without giving further notice. The enforcing officer may abate the nuisance by arranging for city employees or private contractors to paint over the nuisance, or by other appropriate means. The cost of abating the nuisance shall be billed to the responsible party and may be a lien against the property in accordance with the provisions of section 54-83. The cost shall be the standard hourly rate for labor equipment use for the city or the reasonable cost incurred by a private contractor, and is appropriate.

Sec. 54-129. Emergency Abatement by City.

An enforcing officer may abate a public nuisance under section 54-125, without giving notice, if the public health, safety, or welfare requires immediate abatement, including, but not limited to, threats against a specific person or group of people, incendiary language, profanity, or sexually explicit language. The cost of abating the nuisance shall be billed to the responsible party and may be a lien against the property in accordance with section 54-83. The cost shall be the standard hourly rate for labor and equipment use for the city or the reasonable cost incurred by a private contractor, as is appropriate.

Sec. 54-130. Right of Entry.

An enforcing officer or other authorized representative is hereby empowered to enter upon any premises in the city for the purposes of determining compliance with section 54-125.

Sec. 54-131. Appeal of Assessment.

(a) A property owner or responsible party assessed for abatement costs may appeal the assessment to the city manager or his/her designee. On appeal, the city manager or his/her designee shall determine whether:

(1) The property was in violation of section 54-125;

- (2) Whether the city provided notice as required in section 54-124 before the city abated the condition (except for emergency abatements); and
- (3) Whether the costs assessed against the property owner were properly calculated.

An appeal shall be filed within 21 days after the city mails notice to the property owner that the costs will be assessed against the property owner.

Commissioner Stamiris moved adoption of Ordinance No. 2015-10.

Adopted by the following vote:

Yes, Commissioners Stamiris, Peters, Niedzinski, Dufresne, Irving, Girard, Basmadjian, Sibley, Elliott, 9.

No, none.