

## ORDINANCE NO. 91

### GENERAL PENALTIES AND CITATIONS TO ORDINANCE VIOLATIONS

AN ORDINANCE OF THE TOWN OF BAYSIDE, TEXAS, SPECIFYING GENERAL PENALTIES TO ORDINANCE VIOLATIONS AND CITATIONS FOR VIOLATION OF CITY ORDINANCES AND STATE LAWS; AMENDING PENALTY CLAUSES IN ORDINANCES 25A, 30, 31, 38C, 58A, 60, 63B, 64, 65, 68, 69, 70, 71, 72 AND 89 OF THE TOWN OF BAYSIDE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A REPEALER CLAUSE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF BAYSIDE, TEXAS:

#### SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

*City.* The word "city" shall mean the Town of Bayside, in the County of Refugio and State of Texas.

*City Official.* The city building inspector or city employee or approved agent charged with responsibility of enforcing the ordinance or his designee.

*Delegation of Authority.* Whenever a provision of this Code requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate, and authorize subordinates to perform the act or duty unless the terms of the provision designate otherwise.

*Law Enforcement official:*

- (a) The Department of Public Safety;
- (b) The police department of a municipality; or
- (a) A sheriff, sheriff deputy or constable.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land, or person in control of the property or thing for the owner as that term is commonly understood.

#### SECTION 2. GENERAL PROVISIONS

##### SEC. 2.1. Citations for Violation of City Codes and State Laws.

- A. When any person is found in violation of any provision of the ordinances adopted by the city or of the laws of the state, an approved agent, law enforcement official or a city official may, if the person agrees to sign a citation, issue a citation which shall require the person to appear in court within the time provided on the citation. This section shall in no way limit the legal or statutory authority of any city official or law enforcement official of the city. The citation shall give the person at least ten days to answer any charge of violation of any provision of the ordinances adopted by the city.
- B. Approved agents or employees of the city shall mean those persons in the following divisions that have received written approval of the city mayor to perform citation duties:
  - 1. City official;
  - 2. Animal control officers;

3. Law enforcement officials;
  4. Fire chief;
  5. Code enforcement services.
- C. Signing the citation shall only be a promise to appear and is not an admission of guilt.
- D. It shall be unlawful for any person, upon being issued any citation, to give the city's approved agent or employee a false name or address.
- E. It shall be unlawful to fail to appear in municipal court within the time provided in the citation, provided the citation gave the person at least ten days to answer any charge of violation of any provision of the ordinances or codes adopted by the city.
- F. The following information shall be contained on the citation:
1. Name of defendant;
  2. Address of the defendant;
  3. Driver's license or other identification.
- G. The following information may be included for informational purposes, but shall not nullify any promise to appear:
1. Date of violation;
  2. Place of violation;
  3. Offense charged;
  4. Name of person issuing citation.
- H. Additional or other charges shall not be precluded by the issuance of a citation.

#### SEC. 2.2. Violations of Ordinance; Culpable Mental State.

- A. In any prosecution filed under a provision of this ordinance or any ordinance of the city which expressly requires proof that the actor engaged in conduct intentionally, knowingly, recklessly, or with criminal negligence, then a person does not commit an offense unless he is shown to have engaged in such conduct as the definition of the offense requires.
- B. Whenever in any ordinance of the city an act or a failure to act is prohibited, or is made or declared to be unlawful, or an offense, or a misdemeanor, and such provision does not expressly require proof of a culpable mental state, proof of a culpable mental state is not required for conviction of such offense, it being the intent of the City Council to dispense with the requirement of any culpable mental state in prosecutions filed under such provisions of this ordinance and other ordinances of the city; provided, however, that if such offense is punishable by a fine exceeding the amount authorized by V.T.C.A., Penal Code § 12.23, a person does not commit such offense unless he is shown to have engaged in such conduct intentionally, knowingly, recklessly, or with criminal negligence.

#### SEC. 2.3. General Penalties; Applicability; Continuing Violations.

- A. Except where otherwise provided herein, whenever in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever by ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such ordinance shall be punished by a fine not to exceed two thousand dollars (\$2,000 .00) for violations of all such provisions that govern fire safety, zoning, or public health and sanitation, including the dumping of refuse.
- B. Except where otherwise provided herein, whenever in any ordinance of the City not pertaining to fire safety, zoning, or public health and sanitation, an act is prohibited or is

made or declared to be unlawful or an offense or a misdemeanor, or wherever in this Code or by ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such ordinance shall be punished by a fine not to exceed five hundred dollars (\$500 .00) for violations of all provisions.

- C. Each day any violation of any ordinance continues shall constitute a separate offense unless some other time period is specified.
- D. The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.
- E. Violations of ordinances or codes that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief or civil or quasi-judicial enforcement of a violation of ordinance or code.

#### SEC. 2.4. Schedule of Civil Fines for Violations.

- A. Except with respect to zoning ordinance violations that shall be punished by a fine not to exceed two thousand dollars (\$2,000 .00) for violations of all such provisions that govern fire safety, zoning, or public health and sanitation, including the dumping of refuse, the following schedule of fines and the provisions stated in this section shall apply to any and all Town of Bayside ordinance and/or code violations. An authorized local official is hereby authorized to issue and process municipal ordinance violation notices and citations in accordance with the city ordinances, and as otherwise permitted by law. Except as otherwise provided for herein, if a person admits responsibility at the Town of Bayside Municipal Court or is found responsible for a municipal ordinance violation citation under this or any other city ordinance, a civil fine shall be assessed as follows:
  - 1. 1st offense - Minimum fine of one hundred dollars (\$100.00) and maximum of five hundred dollars (\$500.00) plus costs and attorney fees;
  - 2. 1st repeat offense - Minimum fine of two hundred dollars (\$200.00) and maximum of five hundred dollars (\$500.00) plus costs and attorney fees;
  - 3. 2nd repeat offense - Minimum fine of three hundred dollars (\$300.00) and maximum of five hundred dollars (\$500.00) plus costs and attorney fees.
- B. Whenever an authorized local official issues a stop work order for violation of any of the ordinances or codes, a failure to comply with the properly issued stop work order shall constitute a municipal violation and subject the offender to a fine of not less than two hundred and fifty dollars (\$250.00) for each offense plus costs and attorney fees. A failure to obtain a certificate of occupancy in accordance with the city ordinance shall constitute a municipal violation for which a fine of not less than five hundred dollars (\$500.00) plus costs and attorney fees shall be assessed for each violation.

SEC. 2.5. For the purpose of this section, a "repeat offense" means a second or subsequent violation of the same requirement or provision in an ordinance or code. Nothing in this section shall be interpreted as abrogating the Town of Bayside's right to proceed with an appropriate equitable action in the Refugio County District Court to enjoin and/or abate any violation of the terms of an ordinance or code. Each day that a violation is permitted to continue shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of the ordinance or code so violated

SECTION 3. That the following ordinances, 25A, 30, 31, 38C, 58A, 60, 63B, 64, 65, 68, 69, 70, 71, 72 and 89 of the Town of Bayside is hereby amended, in all other respects said ordinance, article, and section to remain in full force and effect.

SEC. 3.1. Section 10 of Ordinance 25A DRIVEWAY AND CULVERT ORDINANCE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 10.7, which section reads as follows:

Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.2. Section 21 of Ordinance 30 VEHICULAR AND PEDESTRIAN TRAFFIC, Town of Bayside, Texas, is hereby amended to read as follows: :

21. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.3. Section 13 of Ordinance 31 GARBAGE AND TRASH, Town of Bayside, Texas, is hereby amended to read as follows:

13. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.4. Article 13 Section 13.4 of Ordinance 38C BAYSIDE ZONING ORDINANCE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 13.4.6, which section reads as follows:

Sec. 13.4.6 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.5. Article V Section 1 of Ordinance 58A SUBSTANDARD BUILDING ORDINANCE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. I, which section reads as follows:

I. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.6. Article 10 Section 2 of Ordinance 60 SEWER, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.7. Article XIII of Ordinance 63 B RESIDENTIAL CODE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 5, which section reads as follows:

Sec. 5 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.8. Article VIII of Ordinance 64 CONTROL OF WEEDS, BRUSH, RUBBISH, JUNK, UNSIGHTLY MATTER revised October 2007, Town of Bayside, Texas, is hereby amended to read as follows:

PENALTIES. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.9. Article XIII of Ordinance 65 PARK REGULATIONS, Town of Bayside, Texas, is hereby amended to read as follows:

PENALTIES. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.10. Article XIII Section 2 of Ordinance 68 BAYSIDE COMMERCIAL BUILDING CODES, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.11. Article IX Ordinance 69 ANIMAL REGULATIONS revised October 2007, Town of Bayside, Texas, is hereby amended to read as follows:

PENALTIES. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.12. Article XV Section 2 of Ordinance 70 BAYSIDE FENCE BUILDING CODE, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.13. Article VI Section 1 of Ordinance 71 ABANDONED VEHICLES AND PROPERTY AND JUNK VEHICLES, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 1 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.14. Article XV Section 2 of Ordinance 72 MANUFACTURED HOUSING, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.15. SECTION 8 of Ordinance 89 SPECIAL EVENTS, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 8.1, which section reads as follows:

8.1 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SECTION 4. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 5. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 6. That the present ordinances of the Town of Bayside need to specify general penalties to ordinance violations, creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the Town of Bayside.

Date Published in Official Newspaper June 18, 2009

Passed, ordained, approved and adopted this the 9<sup>th</sup> day of June, 2009.

Attest:

Camie Garner  
City secretary

By: Billy P. Fuchs  
Mayor Town of Bayside, Texas