

**IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON**

**ORDINANCE 11-O-686**

**AN ORDINANCE AMENDING BROOKINGS MUNICIPAL CODE TITLE 8, HEALTH AND SAFETY, IN ITS ENTIRETY.**

Section 1. Ordinance identified.

Section 2. Amends Title 8 in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Brookings Municipal Code Title 8, Health and Safety, in its entirety.

Section 2. Amends Title 8, in its entirety: Title 8, Health and Safety, is amended as follows:

**Title 8  
HEALTH AND SAFETY**

Chapters:

8.05 Fire Hazards

8.10 Watercourses, Drainage Channel Maintenance, Storm Drain Protection

8.15 Nuisances

**Chapter 8.05  
FIRE HAZARDS**

Sections:

- 8.05.010 Definitions.
- 8.05.020 Right to enter premises.
- 8.05.030 Duties and responsibilities of citizens
- 8.05.040 Accumulations on roofs.
- 8.05.050 Prohibited materials.
- 8.05.060 Prohibited burns.
- 8.05.070 Permitted burns.
- 8.05.080 Permit standards.
- 8.05.090 Permit fees.
- 8.05.100 Abatement of fire hazards.
- 8.05.110 Appeals.
- 8.05.120 Penalties and violations.

8.05.010 Definitions.

“Class A burn” means the burning of wood products containing paint, glue, preservatives or other chemical treatment, paper, grass, hazardous materials, plastics, asphalt, paint, tires, oil, cardboard, rubber and other refuse and rubbish in an incinerator, burn barrel, or by open burning.

“Class B burn” means the open burning of wood, yard trimmings or leaves in a pile consisting of less than five yards.

“Class C burn” means the open burning of wood, tree trimmings, yard trimmings, or leaves in a pile consisting of more than five yards. Any burn conducted in association with land clearing or commercial tree removal shall be defined as a Class C burn.

“Class D burn” means a campfire conducted on private property or in a designated area of a public park where firewood cut in lengths, not to exceed 18 inches, is used. Such burns are limited to cooking or entertainment use and shall not include the burning of refuse. [Ord. 09-O-643 § 2.]

“Responsible party” or “person responsible” means owner, occupant or other person entitled to possession.

#### 8.05.020 Right to enter premises.

For the purposes of performing their duties, the fire chief or his designee shall have the right to enter upon any premises at all reasonable hours for the purpose of inspection. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 3. Formerly 8.05.010.]

#### 8.05.030 Duties and responsibilities of responsible party.

A. Any shavings, paper, hay, straw, litter or other combustible waste material fragments shall be securely deposited or removed so as to be safe from fire. All receptacles for waste, rags, paper and other substances liable to spontaneous combustion must be made of incombustible material.

##### B. Fire Hydrant Maintenance.

1. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

2. Clear Space Around Hydrants. A three-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

C. It shall be unlawful to permit grass or other vegetation to grow in a manner that is determined to be a fire hazard by the fire-chief. [Ord. 10-O-671 § 2; Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 5. Formerly 8.05.020.]

D. Prior to removal of vegetation upon properties having slopes of more than 15% or are adjacent to a creek, river or the ocean, the responsible party must contact the Planning Department for regulations regarding hillside development.

#### 8.05.040 Accumulations on roofs.

It shall be unlawful to allow or permit to remain upon roofs any accumulation of paper, hay, moss, or other inflammable or combustible material. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 6. Formerly 8.05.030.]

#### 8.05.050 Prohibited materials.

It shall be unlawful to burn the following materials: rubber, asphalt, paint, oil, tires, kitchen garbage, disposable diapers, plastics, fiberglass or any other item that creates a black smoke or an offensive odor, as determined by the fire chief. [Ord. 09-O-643 § 2.]

#### 8.05.060 Prohibited burns.

It shall be unlawful for any person to conduct a Class A burn within the limits of the city of Brookings. [Ord. 09-O-643 § 2.]

#### 8.05.070 Permitted burns.

A. Class B and Class C Burn Permits. Any person desiring to conduct a Class B or Class C burn must first obtain a written permit from the fire chief. Any person desiring to conduct a Class C burn must also first obtain a written permit from the State of Oregon Department of Environmental Quality (DEQ).

B. Class D Burns Without Permit. There shall be no permit required for Class D burning. The fire chief shall have the authority to require any Class D burn to be immediately extinguished upon making a determination that such burn is creating a hazard or public nuisance. [Ord. 09-O-643 § 2.]

#### 8.05.080 Permit standards.

A. All Class B and Class C burns must be conducted between the hours of sunrise and dusk, with no starting or stoking of fires after 4:00 p.m. Attendance at the site of the burn by the permittee, or by permittee's adult designee, is required at all times. Attendant shall have immediately available a shovel and sufficient water to extinguish the fire or prevent escape of the fire from the burn location.

B. Class B permits shall be valid for a maximum of two consecutive days and shall not be renewed for 48 hours after conclusion of any previous burn.

C. Class C permits shall be valid for a maximum of seven days in a 30-day period.

D. Burning is prohibited on windy days.

E. The fire chief may prescribe additional standards of care and procedures for obtaining burn permits in order to administer this section and provide for the safety of life and property. The fire chief may cancel, modify or suspend permits at any time in the interest of public safety. [Ord. 09-O-643 § 2.]

#### 8.05.090 Permit fees.

Burn permits fees shall be as established by the city's master fee resolution. [Ord. 09-O-643 § 2.]

#### 8.05.100 Abatement of fire hazards.

The fire chief or his designee shall, upon determining that a fire hazard exists as described in this chapter, notify the person responsible for the property upon which said fire hazard exists. Such notice shall be delivered personally in writing or physically posted upon the property or by registered mail to the last known address of such person and shall state specifically the condition which has caused the fire hazard. Such fire hazard shall be removed within 24 hours after delivery of said notice. If removal is not completed within such time, the fire chief or his designee shall cause such fire hazard to be removed and the cost thereof shall become a lien upon the property upon which said fire hazard exists. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 12. Formerly 8.05.070.]

#### 8.05.110 Abatement Costs - Lien.

The procedures contained in BMC 8.15.090(F) shall apply. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 13. Formerly 8.05.080.]

#### 8.05.120 Penalties and violations.

Pursuant to Chapter 1.05 BMC. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 15. Formerly 8.05.100.]

**Chapter 8.10**  
**WATERCOURSES, DRAINAGE CHANNEL MAINTENANCE,**  
**STORM DRAIN PROTECTION**

Sections:

- 8.10.005 Definitions.
- 8.10.010 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.
- 8.10.020 Permit required.
- 8.10.030 Specification of damages.
- 8.10.040 Indemnification of city.
- 8.10.050 Duties of responsible party
- 8.10.060 Declaration of public nuisance and assessment of costs of abatement.
- 8.10.070 Penalties.
- 8.10.080 Continuing violations.

8.10.005 Definitions.

For the purpose of this chapter, the following definitions apply:

- A. “Construction” includes, but is not limited to, constructing any of the following: a building, an addition to a building, landscaping, sidewalks, or driveways, irrespective of size.
- B. “Contaminant” means any substance or material such as, but not limited to, oil, gasoline, antifreeze, animal waste, lawn and yard fertilizers, defoliants, paint, or chemicals intended for insect control, that could cause harm, or otherwise have an adverse effect on the city’s storm drain system.
- C. “Debris” means any foreign material such as, but not limited to, trackout, sediment from erosion, landscaping supplies, lawn clippings, leaves, brush, tree trimmings, household trash, litter, and concrete.
- D. “Landscaping” means the process of arranging soil, trees, shrubs, grass, irrigation systems, or other commonly used landscaping materials on a piece of property. For this chapter, landscaping does not include routine lawn or yard maintenance such as grass mowing.
- E. “Responsible party” or “person responsible” means the owner, occupant or other person entitled to possession of the property.
- F. “Storm drain system” means the system of pipes, manholes, curbs, gutters, curb inlets, catch basins, canals, ditches, detention basins, ponds and streams intended to convey stormwater runoff.
- G. “Trackout” means the tracking of mud, soil, debris, or contaminant onto any street, alley, sidewalk, or public way. [Ord. 07-O-591 § 2.]

8.10.010 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.

A. No watercourse, drainage channel, or storm drain shall be altered, changed, restricted, contaminated or blocked in any manner, nor shall diffused surface waters be collected or concentrated in any manner until or unless a drainage plan prepared by an Oregon-registered professional engineer shall have been submitted to and approved by the city manager or his/her designee.

B. Drainage Channel Obstruction – Nuisance. It is a violation for any person, persons, firm or corporation, or any agent for such person, persons, firm or corporation, or any employee thereof, to cause or allow the growth of vegetation or the presence of a blockage or accumulation of debris within any natural or manmade drainage channel within the city to the point that the natural flow of water within that drainage is substantially impeded, diverted or altered from its most efficient course.

Violations of this section will be abated pursuant to BMC 8.15.090 and shall be punishable as an ordinance violation pursuant to Chapter 1.05 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 1.]

#### 8.10.020 Permit required.

The permit required herein may be terminated by order of the city manager for failure by the property owner to properly maintain the improved waterway and drainage appurtenances in a safe and workmanlike manner. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 2.]

#### 8.10.030 Specification of damages.

The property owner or any person, firm or corporation which shall have altered or changed a watercourse, allowed restriction, contamination or blockage thereof in any manner whatsoever, or increased the drainage runoff flow so as to cause flooding or damage to other properties, shall be liable in damages arising out of such alteration, change, restriction, blockage, flooding or damage for such actions. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 3.]

#### 8.10.040 Indemnification of city.

This chapter shall not be construed to hold the city responsible for any damage to persons or property by reason of the issuance of any permit for drainage improvements or development, the installation of any improvements, the collection or concentration of any diffused surface waters or the alteration, change, restriction, blockage, flooding or damages to watercourses or to other properties resulting therefrom, all of the aforesaid being the responsibility of the private property owners of the properties affected or involved. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 4.]

#### 8.10.050 Duties of Responsible Party.

A. No person shall, intentionally or unintentionally, allow any debris, water contaminant, or potential water contaminant to enter the city's storm drain system.

B. Any person or persons who causes or allows any type of construction to take place on his or her property shall be responsible for the prevention of any debris, contaminant or potential contaminant from entering the city's storm drain system, and shall adhere to and abide by the guidelines for erosion control and sediment prevention, as described in the City of Brookings Standard Specifications and Uniform Standard Details for Public Works.

C. No person or persons shall allow any debris, contaminant, or potential contaminant from accumulating on any city street, alley, sidewalk, or public way adjacent to his/her property to an extent that said debris, contaminant, or potential contaminant, if allowed to enter the city's storm drain system, could cause a disruption to the proper functioning of the city storm drain system, and necessitate cleaning of any portion of the city storm drain.

D. All property owners within the city of Brookings shall, within 10 days after they shall have actual notice that a watercourse, drainage channel, or storm drain, or drainage appurtenance on or adjacent to property owned by them is obstructed or constricted, remove such obstruction or constriction, and in the event such watercourse shall form the boundary between properties, it shall be the duty of each adjacent property owner to remove such obstruction or constriction. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 5.]

#### 8.10.060 General Abatement Procedure.

Nuisances contained in this chapter shall be abated pursuant to 8.15.090 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 6.]

#### 8.10.070 Penalties.

Pursuant to Chapter 1.05 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 7.]

8.10.080 Continuing violations.

In the event of a continuing violation of this chapter, each day during which such violation exists shall be deemed a separate offense hereunder. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 8.]

**Chapter 8.15  
NUISANCES**

Sections:

- 8.15.010 Definitions.
- 8.15.020 Control of domestic animals.
- 8.15.030 Public health.
- 8.15.040 Hazards.
- 8.15.050 Noxious vegetation.
- 8.15.060 Scattering rubbish.
- 8.15.065 Trees and fences.
- 8.15.067 Surface waters and drainage.
- 8.15.070 Earth from abutting property falling into street.
- 8.15.080 Noise prevention.
- 8.15.085 Recodified.
- 8.15.087 Temporary use of a recreational vehicle or travel trailer.
- 8.15.090 General abatement procedure.
- 8.15.100 Summary abatement.
- 8.15.110 Penalties.

8.15.010 Definitions.

A. "Livestock" refers to horses, mules, asses, cattle, llamas, emus, sheep, swine, goats and poultry, including turkeys, of any age or sex.

B. "Person" means a natural person, firm, partnership, association or corporation.

C. "Person in charge of property" means an agent, occupant, lessee, contract purchaser, tenant or other person having possession or control of property.

D. "Person responsible for abatement" means the person responsible for abating a nuisance and liable for any penalties imposed hereunder and shall include, jointly and severally, the following:

1. The owner;
2. The person in charge of property;
3. The person who caused to come into or continue in existence a nuisance as defined in this chapter.

E. "Public place" means a building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

F. Public Nuisance. It is expressly found and determined by the city of Brookings that the conditions and objects specifically enumerated within this chapter do, in one or more particulars, promote blight, deterioration, unsightliness, plundering, fire hazards, hazards to the health and safety of minors, disruption of the public peace, harborage for rodents, insects and vermin, and circumstances generally injurious or detrimental to the health, safety and general welfare of the inhabitants and occupants of the city of Brookings.

G. "Recreational vehicle" or "travel trailer" means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

H. "Recreational vehicle park" means a commercially developed lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 2; Ord. 86-O-406 § 1.]

I. "Responsible party or person responsible" means an owner, occupant or other person entitled to possession.

#### 8.15.020 Control of domestic animals.

A. No person shall permit any cow, horse, goat, sheep, or other domestic animal kept in any enclosed or unenclosed lot or tract of land within the corporate limits of the city of Brookings to leave said place where said animal is so kept and wander at large within the corporate limits of the city.

B. The owner or keeper of any dog or other domestic animal shall not allow such animal to be a public nuisance. A dog, cat, or other such animal is deemed herein to be a public nuisance if it bites a person; chases persons or vehicles; damages or destroys property of persons other than the animal's owner; scatters garbage; trespasses on private property of persons other than the animal's owner; disturbs any person or neighborhood by frequent or prolonged barking, yelping, howling or any other such noise making; defecates on the property of another or of the public; or is a female in heat and running at large. Such animal shall not be considered a public nuisance if it bites a person who wrongfully is assaulting the animal or the animal's owner or if it bites a person trespassing upon premises owned or occupied by said animal's owner.

C. No person owning or harboring or having the care or custody of a vicious dog or other animal shall permit such animal to go unconfined beyond the premises of such person unless such an animal is securely leashed and muzzled or otherwise restrained. "Vicious" as herein defined means any dog or other animal or fowl with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals, any animal which attacks a human being or domestic animal without provocation, or any dog or other such animal owned or harbored primarily or in part for the purpose of dog or animal fighting.

D. No person shall own or harbor any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of dog fighting or for the purpose of causing or encouraging said dog to unprovoked or willfully provoked attacks upon human beings or domestic animals.

E. No dog is allowed to run at large within the corporate limits of the city of Brookings. When a dog is found running at large it may be taken up and impounded by the Brookings police department or said office's designee and, if so impounded, said animal shall be held in any reasonable and adequate shelter which can be provided for such purposes. A reasonable effort shall be made to notify the dog's owner before it is removed from impoundment. If no owner appears to redeem his/her dog within five days after impoundment, the dog may be released to a responsible person upon receiving assurance from that person that he or she will properly license and care for the dog and not allow the dog to run at large or become a nuisance, and upon payment of a sum which will cover the cost of keeping the dog during the impoundment. Any owner redeeming his/her dog shall pay, in addition to any fine imposed, a reasonable charge for the expense of keeping the dog during its confinement. If no owner is found for the dog nor any responsible person found within the above-allotted time to whom the dog can be

released, then the Brookings police department shall have total discretion and control of the further disposition of the animal.

F. No person shall own, harbor, take care of, or have in custody any dog without it being licensed with Curry County. Said person is responsible for payment of licensing fees, as well as securing any and all shots, vaccinations, or records which may be needed to license the animal.

G. No person shall permit the carcass of any animal owned or controlled by him to remain upon the public streets or ways to be exposed on private property for a period of time any longer than is necessary to remove the said carcass. It shall be the duty of such owner or occupant forthwith to cause such carcass to be buried or have other disposition made of the same. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 3; Ord. 86-O-406 § 2.]

#### 8.15.030 Public health.

No owner or person in charge of property shall cause or permit to be or remain on public or private property the following objects or conditions:

A. Privies. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the health division regulations.

B. Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

C. Stagnant Water. An open pit, quarry, cistern, well, cesspool or other excavation in which stagnant water affords a breeding place for mosquitoes and other insect pests.

D. Water Pollution. Pollution of a body of water, well, spring, stream, drainage facilities or drainage ditch by sewage, industrial wastes, construction wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

E. Food. Decayed or unwholesome food which is offered for human consumption, or which causes an offensive odor.

F. Odor. Premises which are in such a state or condition as to cause an offensive odor, or premises which are in an unsanitary condition.

G. Surface Drainage. Drainage of liquid wastes from private premises.

H. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

I. Garbage Containers. Garbage and noncombustible refuse that is not stored in flytight, watertight, and rodent-proof containers that are kept clean and in good repair.

J. Livestock and Pets. The keeping of livestock and pets or buildings for the purpose of housing such livestock or pets in such a manner as to be a breeding place or likely breeding place for rodents or pests.

K. Sanitation. A business or residence that is kept or maintained in such a condition as to permit rats, rodents, vermin, or other pests to burrow or live therein. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 4; Ord. 86-O-406 § 3.]

#### 8.15.040 Hazards.

No owner or person in charge of property shall permit thereon:

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

B. Lumber or logs, stored in a manner so as to be attractive, dangerous, and accessible to children;

C. An open pit, quarry, cistern, well, cesspool or other excavation without safeguards or barriers to prevent such places from being used by children. Any such opening or hole having a depth of four feet or more and a top width of 12 inches or more shall be covered or fenced with suitable protective construction;

D. Any junk unless such is completely enclosed within a building or kept in a duly licensed junkyard or automobile wrecking house. The term "junk" as used in this section includes all motor vehicles, machinery, or appliances, and any parts thereof or therefor; discarded or abandoned vehicles or components thereof; and old iron or other metal, glass, paper or discarded materials. "Discarded" shall mean any vehicle which does not have properly affixed thereto an unexpired license plate and is either inoperative, wrecked, dismantled (or partially so), or abandoned. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 4.]

#### 8.15.050 Noxious vegetation.

The Department of Agriculture has declared certain species of vegetation to be a menace to the public welfare (ORS 570.505). A list of the vegetation covered under this declaration may be found in OAR 603-052-1200. It shall be unlawful for the owner, occupant, agent, or other person in possession of any lot, tract, or parcel of land within the corporate limits of the city of Brookings to permit the following:

A. The growth or propagation of gorse. The city may allow an abatement plan to be filed if it is determined that the gorse infestation is severe enough to merit a long-range eradication program. B. The uncontrolled growth of nuisance vegetation. "Nuisance vegetation" is defined as vegetation that:

1. Encroaches onto the property of another; the encroachment must be by the plant itself and not by seed or underground root systems; and
2. Is listed in OAR 603-052-1200. [Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 93-O-406.A §§ 5, 6; Ord. 93-O-134.A § 2; Ord. 86-O-406 § 5; Ord. 59-O-134 § 8.]

Exception: Vegetation growing on slopes of greater than 15% or adjacent to a water course or body of water that is providing erosion control.

#### 8.15.060 Scattering rubbish.

No person shall deposit upon public or 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 upon a public way. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 6.]

#### 8.15.065 Trees and fences.

No owner or person in charge of property that abuts upon a street or public sidewalk shall:

A. Permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 13-1/2 feet above the roadway;

B. 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;

C. Allow to stand a tree that has been identified as a high potential blowdown hazard by a professional engineer or forester, as designated by the city;

D. 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;

E. Construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person. [Ord. 07-O-589 § 2; Ord. 06-O-572 § 1; Ord. 94-O-406.B § 2; Ord. 86-O-406 § 7.]

#### 8.15.067 Surface waters and drainage.

No owner or person in charges of property shall:

A. Suffer or permit rainwater, ice or snow to fall from any building or structure onto a street or public sidewalk or to flow across the sidewalk;

B. Fail to install and maintain a proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. [Ord. 86-O-406 § 8.]

#### 8.15.070 Earth from abutting property falling into street.

Any earth, debris, or other material which caves or falls into or upon any street or sidewalk from any adjacent or abutting real property is a nuisance, and the owner or occupant of such real property shall remove forthwith said earth, debris, or material. It shall be unlawful for any owner or occupant of any real property to permit such earth, debris, or other material to remain upon any street or sidewalk. [Ord. 07-O-591 § 2; Ord. 51-O-013 § 99.]

#### 8.15.080 Noise prevention.

A. It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuation of any unreasonably loud, disturbing, or unnecessary noise; and further, no person shall conduct or maintain any condition, activity, operation, vocation or avocation which causes unreasonably offensive noise to either the neighborhood or the public at large. In the case of noise that is generated due to an activity that is permitted within the zone, specifically in the case of industrial or manufacturing zones, such noise shall not be deemed unreasonably offensive.

B. The following acts are declared to be violations of this chapter, but said enumeration shall not be deemed to be exclusive:

1. The use of any automobile or other vehicle, engine, stationary or moving instrument, device or thing so out of repair or used in such manner as to create a loud or unnecessary grating, grinding, rattling or other such noise;
2. The sounding of any horn or signaling device on any automobile or other vehicle on any street or public place, except as a necessary warning of danger to property or person or as so used on emergency equipment;
3. Entertainment devices used in an abusive manner for the creation of prolonged and excessively loud noise;
4. The use of an electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception by radio or television receiver of good engineering design unless said device or apparatus is duly licensed, approved and operated under the rules and regulations of the Federal Communications Commission;
5. Any person who operates powered construction equipment; erects, constructs, demolishes, excavates for; alters or repairs any building, structure, roadway or utility within the city in such a manner as to cause noise to be received beyond the boundaries of the property on which the construction work is occurring shall comply with the following:
  - a. Except for the pouring of concrete and roofing, no construction work shall be performed before 7:00 a.m. or after 7:00 p.m. on weekdays.

- b. Except for the pouring of concrete and roofing, no construction work shall be performed before 8:00 a.m. or after 7:00 p.m. on weekends or holidays.
- c. Provided, however, that in case of urgent necessity, permission may be granted by the city manager for construction activities to occur during otherwise proscribed hours. [Ord. 10-O-674 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 9.]

**8.15.085 Motor vehicles.\***

Recodified at BMC 10.30.005. [Ord. 07-O-591 § 2; Ord. 06-O-571 §§ 1 – 5.]

\* Code reviser’s note: Ords. 06-O-571 §§ 1 – 5 and 07-O-591 § 2 were recodified at the request of the city.

**8.15.087 Temporary use of a recreational vehicle or travel trailer.**

A. All recreational vehicle parks within the city of Brookings shall conform to the electrical, fire, health, building, and plumbing ordinances of the city of Brookings, as amended, except as hereinafter specified.

B. It is a violation to use a recreational vehicle or travel trailer for living purposes within the city of Brookings except when parked within a licensed recreational vehicle park. A recreational vehicle or travel trailer may be used for temporary sleeping purposes within the city of Brookings provided as follows:

1. That the recreational vehicle or travel trailer is located entirely on private property that is residentially zoned and developed with a dwelling unit or there is an active building permit for a dwelling unit;
2. That no connection of any kind may be made to the city’s water or sewer system; and
3. That the period of use for the property shall not exceed 14 days out of any calendar year.

C. It shall be a violation for any person, firm, or corporation owning or operating a recreational vehicle park in the city of Brookings to violate any of the provisions of this chapter. It shall be a violation for any person, firm, or corporation owning, maintaining, or in control of any recreational vehicle or travel trailer, or the occupant or tenant of any recreational vehicle or travel trailer in whatever capacity, to violate any provisions of this chapter. [Ord. 09-O-642 § 2; Ord. 07-O-591 § 2.]

**8.15.090 General abatement procedure.**

A. Upon determination by the city manager or his designee that a nuisance/violation exists, the city shall cause a notice to be posted at the site of the nuisance/violation or mail the notice by certified mail or personally deliver the notice to the responsible party, directing the person responsible to abate the nuisance/violation. The city may record the notice of nuisance in the County Recorder’s office.

B. The notice to abate shall contain:

1. A general description, location or address of the real property on which the nuisance/violation exists;
2. A direction to abate the nuisance/violation within 10 days from the date of the notice;
3. A description of the nuisance/violation;
4. A statement that, unless the nuisance/violation is removed, the city may abate the nuisance/violation and charge the person responsible for abatement and administrative costs;
5. A statement that failure to abate a nuisance/violation may warrant imposition of a penalty;

6. A statement that the person responsible may dispute the existence of a nuisance/violation by giving a written statement to the city manager or his designee within 10 days from the date of the notice to abate;

7. An error in the name or address of the person responsible shall not make the notice void.

C. Within the 10-day period after the posting or mailing of such notice, the person responsible shall either remove and abate the nuisance/violation, or develop a plan acceptable to the city manager or his designee to remove or abate the nuisance/violation, or file his written statement setting forth his grounds that no nuisance/violation exists and request an administrative hearing.

D. If a written statement of dispute is filed within the period of time, there shall be a hearing scheduled within 15 days before the city manager. After hearing all relevant evidence and argument, the city manager shall determine whether or not a nuisance/violation in fact exists and provide a written statement of the decision. In BMC Title 17 cases, where the potential violation is a matter of ambiguity, the city manager's decision may be appealed to the planning commission pursuant to Chapter 17.156 BMC.

E. If the city manager determines that a nuisance/violation does in fact exist, the person responsible shall remove or abate the nuisance/violation within 10 days after determination is mailed. If, within such time, no appeal has been filed and the nuisance/violation has not been abated or removed by the person responsible, the city may cite the responsible person into municipal court for a violation of this chapter pursuant to BMC 8.15.110. In addition to the levying of a fine, if the City so requests, the municipal judge may order the nuisance abated by the City, the cost of such abatement to be recovered through a lien against the property.

F. If the city abates the nuisance/violation the following shall apply:

1. The city, its officers and employees so charged with abatement of the nuisance/violation shall have the right at all reasonable times to enter into or upon the property to investigate and cause the removal of the nuisance/violation.

2. The city shall keep an accurate record of the expense incurred in abating the nuisance/violation, and shall additionally include a charge of \$150.00 or 15 percent of the abatement expenses, whichever is greater, for administrative overhead. Any bill unpaid from 30 days of mailing shall carry interest at the statutory rate per annum. The Administrative Services Director, by registered or certified mail, shall forward to the person responsible a notice stating:

a. The total cost of abatement, including the administrative overhead;

b. That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;

c. That the Administrative Services Director will temporarily enter the cost of abatement in the City's lien docket;

d. That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the Administrative Services Director not more than 10 days from the date of the notice.

3. If an objection is received on or before the expiration of 10 days after the notice was served, the City Manager shall consider the objection and make a final determination regarding the cost to be assessed.

4. The lien shall thereupon be entered in the docket of the city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance/violation was removed or abated. The lien shall be enforced and shall bear interest at the statutory rate. The interest shall commence to run from the date of the entry of the lien in the lien docket. 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. [Ord. 07-O-591 § 2; Ord. 93-O-406.A §§ 7, 8; Ord. 86-O-406 § 10.]

8.15.100 Summary abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other chapters and the general police powers of the city; and the city manager, the chief of the fire department, the chief of the police department and the building/fire safety officer may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 11.]

8.15.110 Penalties.

Pursuant to Chapter 1.05 BMC. [Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 86-O-406 § 12.]

First Reading: December 12, 2011  
Second Reading: December 12, 2011  
Passage: December 12, 2011  
Effective Date: January 11, 2011

Signed by me in authentication of its passage this 13<sup>th</sup> day of December, 2011

  
\_\_\_\_\_  
Mayor Larry Anderson

ATTEST:  
  
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City Recorder Joyce Heffington