

**IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON  
ORDINANCE 16-O-761**

**IN THE MATTER OF ORDINANCE 16-O-761, AN ORDINANCE AMENDING IN ITS ENTIRETY SECTION 8.15.010, DEFINITIONS, AND SECTION 8.15.090 GENERAL ABATEMENT PROCEDURE, OF BROOKINGS MUNICIPAL CODE CHAPTER 8.15 NUISANCES.**

Sections:

- Section 1. Ordinance Identified.
- Section 2. Amends Section 8.15.010.
- Section 3. Amends Section 8.15.090.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends in its entirety Section 8.15.010, Definitions, and Section 8.15.090, General abatement procedure, of the Brookings Municipal Code Chapter 8.15, Nuisances.

Section 2. Amends Section 8.15.010. Section 8.15.010 is hereby amended in its entirety to read as follows:

**8.15.010 Definitions.**

A. “Code Enforcement Officer” means any City employee authorized by the City Manager to enforce the provisions of this Chapter, including but not limited to building inspectors, police officers, public works inspectors and fire department employees.

B. “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.

C. “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.

D. “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.

E. “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.

F. *Repealed by Ord. 14-O-736.*

G. “Person” means a natural person, firm, partnership, association or corporation.

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

I. “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.

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

K. 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, flood 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.

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

M. “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.

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

O. “Storm drainage system” means the system of pipes, manholes, curbs, gutters, curb inlets, catch basins, canals, ditches, detention basins, ponds and streams intended to convey storm water runoff.

P. “Trackout” means the tracking of mud, soil, debris, or contaminant onto any street, alley, sidewalk, or public way.

Section 3. Amends Section 8.15.090. Section 8.15.090 is hereby amended in its entirety to read as follows:

**8.15.090 General abatement procedure.**

A. Upon determination by a code enforcement officer 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.

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

**C. The person responsible for maintaining said nuisance shall remove or abate the nuisance/violation within 10 days of receipt or posting of notice. If, within such time, the abatement has not been completed, or a plan for abatement has not been approved by the code enforcement officer the code enforcement officer 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. In BMC Title 17 cases, where the potential violation is a matter of ambiguity, the code enforcement officer determination of violation may be appealed to the planning commission pursuant to Chapter 17.156 BMC.**

**D. 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.

First Reading: June 27, 2016 Passage: June 27, 2016  
Second Reading: June 27, 2016 Effective Date: July 26, 2016  
Signed by me in authentication of its passage 28<sup>th</sup>, day June, 2016

Ron Hedenskog  
Mayor Ron Hedenskog

ATTEST:

Teri Davis  
City Recorder Teri Davis