

For: Monday, June 27, 2016, City Council Meeting

Advance Packet Information

Included in this packet is documentation to support the following Agenda items:

ORDINANCES

1. Ordinance 16-O-759, an Ordinance Amending Brookings Municipal Code Section 12.25.020 Public Parks and Recreational Areas, Exceptions, adding an exemption to park operating hours for the Mill Beach Access. [City Manager, Pg. 2]
 - a. Ordinance [Pg. 3]
 - b. Chapter 12.25.012 of the Brookings Municipal Code [Pg. 4]
2. 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. [PWDS, Pg. 6]
 - a. Ordinance [Pg. 7]

*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, or at City Hall. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

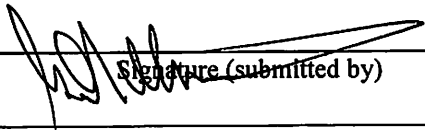
All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least fourteen days advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 27, 2016

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Ordinance 16-O-759 Amending Brookings Municipal Code Section 12.25.020 adding an exemption to park operating hours for the Mill Beach Access.

Recommended Motion:

Motion to adopt Ordinance 16-O-759 amending Brookings Municipal Code Section 12.25.020 adding an exemption to park operating hours for the Mill Beach Access.

Background/Discussion:

The City Council discussed the application of Brookings Municipal Code Section 12.25.020 to the Mill Beach Access at its meetings of May 9 and June 13. BMC 12.25.010 provides as follows:

Except as provided in BMC 12.25.020, all city-owned public parks and city-owned public recreational areas located within the city of Brookings shall be open for use by the public from one-half hour prior to sunrise to one-half hour past sunset. [Ord. 94-O-505 § 1.]

At the June 13 meeting, staff received direction to return to the City Council with an Ordinance providing an exemption from this restriction as to the Mill Beach Access.

Ordinance 16-O-759 would add a provision in the Exemptions section of Chapter 12.25 providing that the Mill Beach Access would remain open for public use from one half-hour before sunrise until 12:00 midnight, year round.

With the proposed change, other provisions of BMC 12.25.012 would remain in effect in the parking and picnic area, including provisions prohibiting camping, fires, amplified sound and skateboarding. These provisions would not apply to the adjacent beach, which is under the jurisdiction of the State of Oregon.

Attachment(s):

- a. Ordinance 16-O-759
- b. Brookings Municipal Code Chapter 12.15.012

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 16-O-759

IN THE MATTER OF ORDINANCE 16-O-759, AN ORDINANCE AMENDING BROOKINGS MUNICIPAL CODE SECTION 12.25.020 PUBLIC PARKS AND RECREATIONAL AREAS, EXCEPTIONS, ADDING AN EXEMPTION TO PARK OPERATING HOURS FOR THE MILL BEACH ACCESS.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Section 12.25.020

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Section 12.25.020 of the Brookings Municipal Code.

Section 2. Amends Section 12.25.020 : Section 12.25.020 Public Parks and Recreational Areas, Exceptions is amended to read as follows:

The city manager may, upon prior application, permit use of a city-owned public park or city-owned public recreational area at times other than the times that the premises are open for use by the public. [Ord. 94-O-505 § 2.]

Park operating hours for the Mill Beach Access road, parking lot and picnic area will be open and available to the public from one half-hour before dawn until midnight, daily.

First Reading: _____ Passage: _____
Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2016

ATTEST:

Mayor Ron Hedenskog

City Recorder Teri Davis

12.25.012 Rules and regulations specific to city-owned parks.

A. The following activities and uses are prohibited in all city parks, except by city park employees, volunteers or contractors in the performance of authorized maintenance or construction:

1. Camping.
2. Parking or use of motorized vehicles, other than wheelchairs, on walkways, landscaped areas, natural vegetation areas, playgrounds and sports fields, except for authorized maintenance or the purpose of set-up or tear-down of an event.
3. Possession or use of fireworks or explosives; unlawful possession or use of firearms.
4. Throwing of rice or seeds, including bird seed.
5. Damage to or removal of any vegetation.
6. Modification or painting of any structure, equipment or furniture.
7. Bicycles, skateboards, skates or roller blades, except in designated areas.
8. Unleashed dogs, except in designated areas.
9. Failure to remove animal excrement by the animal owner.
10. Attaching signs to any city sign post, trees or other vegetation.
11. Any use of the park for an organized event without having first obtained an approved park use permit. An organized event includes weddings, memorials, athletic activities, concerts, holiday displays, picnics where the host wishes to reserve a specific area, use of the snack shack, bandshell or Capella, and the conduct of business activities.
12. Amplified sound and/or music at a level that is not contained within the immediate area of the activity, subject to BMC 8.15.080.
13. Placement of any sign without first having obtained approval by the city manager or his designee.
14. Failure to remove signs within two hours of the conclusion of an event.
15. Fires, except fires in camp stoves, portable barbeques or fireplaces provided for such purposes.


16. The use of camp stoves or portable barbeques except in designated picnic areas.
17. Unattended fires, camp stoves or portable barbeques.
18. Leaving the location of a fire until the fire is completely extinguished with no hot coals remaining.
19. The use of amplified sound at Bankus Park.
20. The use of Bankus Park for more than single-day events, except as approved by the parks and recreation commission.


B. Penalties and Fines.

1. The fine for a first offense under subsection (A) of this section is \$50.00, a second violation is \$100.00, and any third or subsequent violation shall be the maximum allowed under Chapter 1.05 BMC, General Penalty.
2. Upon a third violation/conviction, the offending person may be prohibited from using or entering all city-owned parks for a period of one year.
3. If a person is given a citation for violating subsection (A) of this section, he or she must immediately cease the offending conduct. If the person given the citation continues the offending use or activity, he or she will be subject to additional citations and/or immediate trespass under ORS 164.245. [Ord. 13-O-708 § 2; Ord. 10-O-667 § 2.]

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: June 27, 2016

Donna Colby-Hanks 

Signature (submitted by)


City Manager Approval

Originating Dept: PWDS

Subject: Adoption of Ordinance No. 16-O-761.

Recommended Motion: Adoption of Ordinance No. 16-O-761 revising Chapter 8, Health and Safety, of the Brookings Municipal Code (BMC).

Financial Impact: None.

Background/Discussion: This matter was discussed at the June 13, 2016 Council meeting. To streamline the process for abatement of nuisances and resolve violations more quickly, the revisions remove the City Manager from the process and provides for the matter to go directly to Court if not resolved between City Code Enforcement Staff and the property owner. In BMC Title 17 cases, where the potential violation is a matter of ambiguity, the matter may be appealed to the Planning Commission pursuant to Chapter 17.156 BMC.

The revisions clarify that potential violations are processed by a code enforcement officer. A definition of the code enforcement officer has been included as well.

Policy Considerations: None

Attachment(s): A. Ordinance No. 16-O-761

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: _____ Passage: _____
Second Reading: _____ Effective Date: _____
Signed by me in authentication of its passage _____, day _____,

ATTEST:

Mayor Ron Hedenskog

City Recorder Teri Davis