

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

**In the Matter of an Ordinance Amending )  
Ordinance No. 06-O-572, An Ordinance )  
Creating the City of Brookings Municipal )      **Ordinance No. 07-O-591**  
Code, to amend Title 8, Health and Safety, )  
in its entirety. )**

Sections:

- Section 1.      Ordinance identified.
- Section 2.      Amendment to BMC Title 8.

The City of Brookings ordains as follows:

Section 1.      Ordinance Identified. This ordinance amends Ordinance No. 06-O-572, Brookings Municipal Code (BMC).

Section 2.      BMC Title 8 is hereby amended to read 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      Right to enter premises.
- 8.05.020      Duties and responsibilities of citizens.
- 8.05.030      Accumulations on roofs.
- 8.05.040      Permit to burn upon public streets, alleys, or highways required.
- 8.05.050      Permit to burn in any open space required.
- 8.05.060      Inspection of premises by fire marshal.
- 8.05.070      Abatement of fire hazards.
- 8.05.080      Appeals.
- 8.05.090      Rules and regulations for the construction, installation, and operation of incinerators, is repealed.
- 8.05.100      Penalties.

**8.05.010      Right to enter premises.**

For the purposes of performing their duties, the fire marshal or deputy shall have the right to enter upon any premises at all reasonable hours for the purpose of inspection. [Ord. 59-O-134 § 3.]

**8.05.020      Duties and responsibilities of citizens.**

Any person using or having charge or control over any shavings, paper, hay, straw, litter or other combustible waste material fragments shall cause them to 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. [Ord. 59-O-134 § 5.]

#### **Fire Hydrant Maintenance.**

A. 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.

B. Clear space around hydrants. A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

#### **8.05.030 Accumulations on roofs.**

It shall be unlawful for any person to allow or permit to remain upon roofs in the city of Brookings any accumulation of paper, hay, moss, or other inflammable or combustible material. [Ord. 59-O-134 § 6.]

#### **8.05.040 Permit to burn upon public streets, alleys, or highways required.**

It shall be unlawful for any person to kindle any fire or cause to be kindled upon public streets, alleys, or highways within the city of Brookings without first obtaining a written permit from the fire marshal to do so. This section does not prohibit fires necessary for the heating of pitch or tar for roofing authorized buildings or street construction or repairs. [Ord. 59-O-134 § 7.]

#### **8.05.050 Permit to burn in any open space required.**

It shall be unlawful for any person within said city to burn any inflammable refuse or rubbish in any open space without first obtaining a permit so to do from the fire marshal. [Ord. 59-O-134 § 9.]

#### **8.05.060 Inspection of premises by fire marshal.**

Upon receipt of an application to burn wood materials in the city of Brookings, the fire marshal shall investigate the premises where said materials are to be burned. If in his judgment such burning will not endanger life or property in the city of Brookings, he shall grant a permit for such burning, stating the exact time and place for the burning of such materials. [Ord. 59-O-134 § 10.]

#### **8.05.070 Abatement of fire hazards.**

The fire marshal or his deputy, the chief of police, or any other police officer in the city of Brookings shall, upon determining that a fire hazard exists as described in this chapter, notify the owner, occupant, or other person in charge of the property upon which said fire hazard exists. Such notice shall be delivered personally in writing 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 a reasonable time, the fire marshal, his deputy, the chief of police, or other police officer 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, or to which it is adjacent, in the same manner as other liens under the laws of the state of Oregon and the Charter of the city of Brookings. [Ord. 59-O-134 § 12.]

#### **8.05.080 Appeals.**

Any owner or occupant of any tract, piece, or parcel of land against which a lien has been entered under the provisions of this chapter, who shall for any reason desire to dispute the same, may file his protest with the city recorder within 10 days from the date of such docketing, which protest shall set forth the ground thereof. The same shall be heard speedily and summarily, and the lien docketed as aforesaid shall be confirmed, modified, or vacated, as may be warranted by the facts; or, if confirmed, the same may thereafter be enforced by notice issued by the city recorder to the police chief to sell said premises upon publishing a notice of such proceeding as is otherwise required on sale of real property for the satisfaction of city liens. [Ord. 59-O-134 § 13.]

**8.05.090 Rules and regulations for the construction, installation, and operation of incinerators, is repealed.**

**8.05.100 Penalties.**

A. Violations. Every offense is a violation which may be punished by a fine up to \$500.00; provided that where Oregon statutes impose a lesser penalty for the same offense, then the lesser penalty shall apply. Each day or part of a day for which a violation is committed or persists is a separate offense.

B. Administrative Enforcement. Where a chapter of this code provides that enforcement shall be through an administrative process, the provisions for administrative procedures shall apply rather than this section.

C. Equitable and Other Remedies Preserved. Nothing in this section prohibits the city seeking equitable relief or damages in addition to judicial or administrative enforcement of its ordinances.

**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 Responsibility of property owners.
- 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" means any person who has the ability to contact the property owner or his/her representative. Usually a job superintendent or lead worker.

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 storm water runoff.

G. "Trackout" means the tracking of mud, soil, debris, or contaminant onto any street, alley, sidewalk, or public way.

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

No watercourses, 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. [Ord. 88-O-429 § 1.]

A. 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 Chapter 8.15.090 thereto, shall be punishable as an ordinance violation pursuant to Chapter 1.05.

**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. 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. 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. 88-O-429 § 4.]

**8.10.050 Responsibility of property owners.**

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, necessitate cleaning of any portion of the city storm drain.

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. 88-O-429 § 5.]

#### **8.10.060 Declaration of public nuisance and assessment of costs of abatement.**

It is hereby declared that any obstruction, constriction, blockage or contamination of a watercourse, drainage channel, or storm drain within the city of Brookings is a public nuisance and the city of Brookings shall have the right to abate such public nuisance, and to enter upon any private property within the city of Brookings for such purpose, and shall assess the cost of such abatement as a lien against the property through which such watercourse, drainage channel, or storm drain flows and upon which the obstruction, constriction or contamination occurs, and in the event such watercourse forms the boundary between two properties, shall assess the cost equally to the adjacent properties. Such assessment shall be levied by the filing of a statement of such costs together with the description of the properties to be assessed, together with the names of the owners thereof with the city recorder, whereupon the city recorder shall forthwith enter such assessment as a lien against such property in the city lien docket of the city of Brookings. An administration fee of \$50.00 or 15 percent of the cost, whichever is greater, shall be charged and collected by the city. [Ord. 88-O-429 § 6.]

#### **8.10.070 Penalties.**

Pursuant to Chapter 1.05.

#### **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. 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 Height limitation on certain vegetation – Noxious vegetation.
- 8.15.060 Scattering rubbish.
- 8.15.070 Earth from abutting property falling into street.
- 8.15.080 Noise prevention.
- 8.15.085 Motor vehicles.
- 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 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. [Ord. 93-O-406.A § 2; Ord. 86-O-406 § 1.]

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 (2) or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations.

#### **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. 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. 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. 86-O-406 § 4.]

### **8.15.050 Height limitation on certain vegetation – Noxious vegetation.**

A. 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 grass or other vegetation, excepting shrubs, trees, or crops raised in the ordinary course of husbandry, to grow over 12 inches tall.

B. Prior to June 15th, such owner, occupant, agent, or other person in possession of property shall cause any such grass or growth on any unoccupied lot to be cut, removed, or destroyed. No person shall burn such grass or growth from any unoccupied lot without first having obtained a permit from the fire marshal so to do. It shall be unlawful for any person within the city of Brookings to accumulate, permit to accumulate, deposit, or cause to be deposited on any premises within the city of Brookings any accumulation of inflammable refuse or rubbish in amount or quantity sufficient to constitute a fire hazard.

C. No owner or person in charge of property may allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property, between May 15th and October 31st of any year. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass,

shrubby, brush, bushes, weeds, or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or in the case of weeds or other noxious vegetation, from maturing or from going to seed.

D. Between April 15th and May 15th of each year, the city recorder may cause to be published three times in a newspaper of general circulation in the city a copy of subsection (C) of this section as a notice to all owners and persons in charge of property of their duty to keep their property free from noxious vegetation. The notice shall state that the city intends to abate all such nuisances 10 or more days after the date of the final publication of the notice and to charge the cost of doing so on any particular parcel of property to the owner thereof, the person in charge thereof or the property itself. In addition to the abatement costs will be an administrative charge as outlined in BMC 8.15.090(F).

E. The general abatement procedure as outlined in BMC 8.15.090 may be followed by the city in addition to or in lieu of the procedure set forth in subsection (D) of this section.

F. If the notice provided for in subsection (D) of this section is used, it shall be in lieu of the premises-posted and mailed written notice required under this chapter.

G. As used in this section, the term "noxious vegetation" means weeds or grass more than 12 inches high, poison oak, gorse, berry bushes that extend across a property line or into a public thoroughfare, and any such other vegetation that is a health hazard or a fire hazard due to proximity to other combustibles. [Ord. 93-O-406.A §§ 5, 6; Ord. 93-O-134.A § 2; Ord. 86-O-406 § 5; Ord. 59-O-134 § 8.]

H. See 8.05.020 for clear space around fire hydrants.

#### **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. 86-O-406 § 6.]

#### **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. 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.

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. [Ord. 86-O-406 § 9.]

### **8.15.085 Motor vehicles.**

A. Definitions. As used in this section, unless the context requires otherwise, the following definitions apply:

1. "Owner of motor vehicle" shall be the same definition as that of ORS 801.375 or any successive definition.

#### **B. Vehicle(s) Subject to Forfeiture.**

1. A motor vehicle being operated by a person whose operator's license is suspended, canceled, or revoked for any felony conviction under the Oregon Vehicle Code (Chapters 801 through 823 ORS, inclusive) is declared a nuisance and subject to forfeiture.

2. A motor vehicle being operated by a person whose operator's license is suspended, canceled, or revoked as a result of a conviction for driving under the influence of intoxicants in violation of the provisions of Chapter 813 ORS is declared a nuisance and subject to forfeiture.

3. Forfeiture proceeding pursuant to this section shall be done in accordance with the provisions of Oregon law.

#### **C. Vehicle(s) Subject to Impound.**

1. Notwithstanding subsection (A) of this section, whenever a motor vehicle is being operated by a person whose operator's license or driving privilege is suspended, canceled, or revoked and a traffic citation is issued or a physical arrest made for any violation of the Oregon Vehicle Code or Brookings city ordinances, or the driver of the motor vehicle is without proof of liability insurance as required by the Oregon Vehicle Code, the motor vehicle is subject to immediate tow by a licensed towing company.

2. Whenever the owner of a motor vehicle has failed to transfer the title or failed to register the vehicle, the motor vehicle shall be subject to immediate tow by a licensed towing company.

3. A vehicle being operated by a motorist who is taken into police custody for any reason, but which the vehicle is not otherwise subject to impound, shall be subjected to tow to protect the property and interest of the person arrested and the city of Brookings.

4. A vehicle towed shall be towed to a storage place licensed by the state of Oregon for purposes of vehicle impound or storage.

5. A vehicle towed for reasons of a suspended, unlicensed, unprivileged or uninsured driver may be redeemed by the owner upon presentation of a valid operator's license and proof of insurance.

6. Vehicles towed and unclaimed or unredeemed may be disposed of after a time and in a manner by the tow company as prescribed by Oregon law. All notices and actions associated with the disposal of any unclaimed or unredeemed vehicle is the responsibility of the tow company having taken the possession of the vehicle.

#### **D. Towing and Storage Liens, Costs.**

1. The owner of a motor vehicle, when redeeming the impounded vehicle, shall be responsible for any and all towing storage fees owed to the towing company.

2. The owner of an impounded vehicle shall pay the city of Brookings an administrative fee of \$100.00 at the time the vehicle is authorized for release. The amount of the administrative fee can be adjusted by the city of Brookings council by resolution.

3. A vehicle towed under subsection (C)(3) of this section shall not be subject to the administrative fee established in subsection (D)(2) of this section, but will be responsible for all towing fees to the towing company.

4. Any towing company taking a vehicle into custody under the provisions of this section shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until charges are paid, and may have the vehicles sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS 87.142 and shall be foreclosed in the manner provided in ORS 87.152 through 87.212. If the appraised value of the vehicle is \$750.00 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220.

#### **E. Hearing.**

1. Request for Hearing. The owner of the vehicle must request a hearing within five calendar days.

2. Hearing Procedure.

a. When a timely request for a hearing is made, a hearing shall be held before a municipal judge.

b. The hearing shall be set and conducted within the next scheduled municipal court session. The hearing may be set for a later date if the owner so requests.

c. At the hearing the person may contest the validity of the impound, providing proof of insurance for the vehicle and driver at the time of the tow and providing proof of the validity of the driver's privilege at the time of tow.

d. The city of Brookings shall have the burden of providing by a preponderance of evidence the validity of the impound. The city may present by oral or written testimony of the police officer and all documents which provide testimony of the cause for impound.

3. Decision of the Municipal Judge.

a. If the municipal judge finds that the impound of the vehicle was proper, the judge shall:

i. Enter an order supporting the removal; and

ii. Find that the owner is liable for any towing and storage charges resulting from the impound;

and

iii. Find the owner is liable for the costs of the tow hearing, including costs of the municipal court and any witnesses.

b. If the municipal judge finds that the impound of the vehicle was improper, the judge shall:

i. Order the vehicle released to the owner;

ii. Find that the owner is not liable for any towing and storage charges resulting from the impound;

and

iii. Order the city to satisfy the towing and storage lien.

c. Any time an owner of a vehicle properly insured at the time of the traffic stop presents such proof to the municipal judge, but in where proof of such insurance was not provided the police officer at the time of the stop, a decision of proper impound shall be entered.

d. The decision of the municipal judge is final.

4. Failure to Appear at Hearing. If the person requesting a hearing does not appear at the scheduled hearing, the municipal judge may enter an order supporting the impound and assessment of towing and storage costs, and shall add an assessment for the costs of the municipal court and any witnesses who appear at the time set for hearing. [Ord. 06-O-571 §§ 1 – 5.]

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

A. All recreational vehicles 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 residentially zoned and developed private property.

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 fourteen (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 ordinance. It shall be a violation for any person, firm, or corporation owning, maintaining, or in control of any recreational vehicle or ravel trailer, or the occupant or tenant of any recreational vehicle or travel trailer in whatever capacity, to violate any provisions of this ordinance.

**8.15.090 General abatement procedure.**

A. Upon determination by the city manager or his designee that a nuisance exists, the city shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance. At the time of posting, the city shall cause a copy of the notice to be forwarded by first class mail and registered or certified mail, or personally delivered to the person responsible, at his last known address.

B. The notice to abate shall contain:

1. A general description, location or address of the real property on which the nuisance exists;

2. A direction to abate the nuisance within 10 days from the date of the notice;

3. A description of the nuisance;

4. A statement that, unless the nuisance is removed, the city may abate the nuisance and charge the person responsible for abatement and administrative costs;

5. A statement that failure to abate a nuisance may warrant imposition of a penalty;

6. A statement that the person responsible may dispute the existence of a nuisance 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, and in such case the posted notice shall be sufficient.

C. Within the 10-day period after the posting and mailing of such notice, the person responsible shall either remove and abate the nuisance, or develop a plan acceptable to the city manager or his designee to remove or abate the nuisance, or file his written statement setting forth his grounds that no nuisance 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 in fact exists and provide a written statement of the decision. The owner or agent may appeal the city manager's decision to the City Council by filing a written notice to the city manager within ten (10) days after the determination is mailed. The city manager shall set the matter for a public hearing at the next regular meeting of the City Council. 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 does in fact exist, the person responsible shall remove or abate the nuisance within ten (10) days after determination is mailed. If, within such time, no appeal has been filed and the nuisance 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 and/of cause the nuisance to be abated.

F. If the city elects to abate the nuisance as an additional remedy, the following shall apply.

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

The city shall keep an accurate record of the expense incurred in abating the nuisance, 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, and be added to the bill each 30 days. The city recorder, by registered or certified mail, shall forward to the person responsible a notice stating:

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

2. 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;

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

Upon the expiration of 10 days after the date of the assessment notice, the council, in the regular course of business, shall hear and determine the objections, if any, to the costs assessed. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the council, shall be made by resolution and 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 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. 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. 86-O-406 § 11.]

**8.15.110 Penalties.**

A. Any person or persons who shall be convicted of being the creator or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of this chapter, commits a violation and shall be fined up to \$500.00 for the first and all subsequent offenses. Each day's violation of a provision of this chapter constitutes a separate offense.

B. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance forthwith upon notice and/or citation is to be deemed and considered a mitigating circumstance in the reduction of penalties which might otherwise be assessed.

C. Citations for any of such violations may be issued by the chief of police, the building/fire safety officer, or the city manager or his designee. [Ord. 86-O-406 § 12.]

First Reading: August 13, 2007

Second Reading: August 13, 2007

Passage: August 13, 2007

Effective Date: September 14, 2007

INTRODUCED AND ADOPTED By the City of Brookings Council and signed by me in authentication of its passage the 15<sup>th</sup> day of August 2007.

  
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Mayor Pat Sherman

  
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Paul Hughes, Admin Services Director/Recorder