

**IN AND FOR THE CITY OF BROOKINGS**  
**STATE OF OREGON**  
**ORDINANCE 20-O-793**

**IN THE MATTER OF ORDINANCE 20-O-793, AN ORDINANCE AMENDING SUBSECTIONS IN CHAPTER 8.15 NUISANCES, CHAPTER 8.20 UNLAWFUL DISPOSAL OF SOLID WASTE AND LITTERING, CHAPTER 10.10 PARKING, CHAPTER 12.10 SIDEWALKS, CHAPTER 12.25 PUBLIC PARKS AND RECREATION AREAS AND CHAPTER 12.45 PUBLIC RIGHT OF WAY OF THE BROOKINGS MUNICIPAL CODE**

Sections:

- Section 1. Ordinances Identified
- Section 2. Amends Chapter 8.15 Nuisances
- Section 3. Amends Chapter 8.20 Unlawful Disposal of Solid Waste and Littering
- Section 4. Amends Chapter 10.10 Parking
- Section 5. Amends Chapter 12.10 Sidewalks
- Section 6. Amends Chapter 12.25 Public Parks and Recreation Areas
- Section 7. Amends Chapter 12.45 Public Right of Way

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends various subsections in the Brookings Municipal Code Chapters 8.15 Nuisances, 8.20 Unlawful Disposal of Solid Waste and Littering, 10.10 Parking, 12.10 Sidewalks, 12.25 Public Parks and Recreation Areas, 12.45 Public Right of Way.

Section 2. Amend Chapter 8.15 Nuisances, is hereby amended to read as presented in Exhibit A attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

Section 3. Amend Chapter 8.20 Unlawful Disposal of Solid Waste and Littering, is hereby amended to read as presented in Exhibit B attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

Section 4. Amend Chapter 10.10 Parking, is hereby amended to read as presented in Exhibit C attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

Section 5. Amend Chapter 12.10 Sidewalks, is hereby amended to read as presented in Exhibit D attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

Section 6. Amend Chapter 12.25 Public Parks and Recreation Areas, is hereby amended to read as presented in Exhibit E attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

Section 7. Amend Chapter 12.45 Public Right of Way, is hereby amended to read as presented in Exhibit F attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

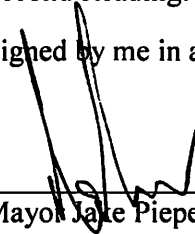
First Reading: December 14 2020

Passage: December 14 2020

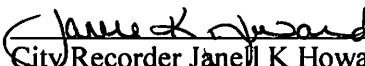
Second Reading: December 14 2020

Effective Date: January 13, 2021

Signed by me in authentication of its passage this 14, day of December, 2020

  
\_\_\_\_\_  
Mayor Jake Pieper

ATTEST:

  
\_\_\_\_\_  
City Recorder Janel K Howard

# Exhibit A

## Changes to Brookings Municipal Code:

(Additional are **bold and underlined**, deletions are ~~bold and strikeout~~)

## Chapter 8.15 NUISANCES

Sections:

- [8.15.010 Definitions.](#)
- [8.15.015 Policy.](#)
- [8.15.020 Control of animals.](#)
- [8.15.030 Public health.](#)
- [8.15.040 Hazards.](#)
- [8.15.045 Deteriorated condition.](#)
- [8.15.050 Noxious vegetation.](#)
- [8.15.060 Repealed.](#)
- [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.](#)
- [8.15.083 Chronic disorderly property.](#)
- [8.15.084 Chronic disorderly property – Enforcement.](#)
- [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. “Chronic disorderly property” means:
1. Any real property on which three or more prohibited activities have occurred during any 60-day period; or
  2. Any real property within 200 feet of which any person associated with the property has engaged in three or more prohibited activities during any 60-day period; or
  3. Any combination of subsections (A)(1) and (2) of this section totaling three occurrences during any 60-day period.
- B. “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.
- C. “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.
- D. “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.
- E. “Controlled substance” has the same definition as is contained in ORS [475.005](#).
- F. “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.
- G. “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.
- H. “Person” means a natural person, firm, partnership, association or corporation.
- I. “Person in charge of property” means an agent, occupant, lessee, contract purchaser, tenant or other person having possession or control of property.
- J. “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.
- K. “Prohibited activity” means any of the following:
1. Harassment as defined in ORS [166.065](#)(1)(a);
  2. Intimidation as provided in ORS [166.155](#) through [166.165](#);

3. Disorderly conduct as provided in ORS [166.025](#);
4. Assault or menacing as provided in ORS [163.160](#), [163.165](#), [163.175](#), [163.185](#), or [163.190](#);
5. Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as provided in ORS [163.415](#), [163.425](#), [163.427](#), [163.435](#), or [163.445](#);
6. Public indecency as provided in ORS [163.465](#);
7. Prostitution or related offenses as provided in ORS [167.007](#), [167.012](#), and [167.017](#);
8. Alcoholic liquor violations as provided in ORS [471.105](#) through [471.482](#);
9. Offensive littering as provided in ORS [164.805](#);
10. Criminal trespass as provided in ORS [164.243](#), [164.255](#) and [164.265](#);
11. Theft as provided in ORS [164.015](#) through [164.140](#);
12. Possession, manufacture, or delivery of a controlled substance or related offenses as provided in ORS [167.203](#), [475.005](#) through [475.285](#), or [475.940](#) through [475.980](#);
13. Illegal gambling as provided in ORS [167.117](#), [167.122](#) or [167.127](#);
14. Criminal mischief as provided in ORS [164.345](#) through [164.365](#);
15. Property which, in addition to or in combination with the prescribed number and duration of prohibited activities, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS [167.203](#), [475.285](#) or [475.940](#) to [475.980](#) have occurred;
16. Violation of BMC [8.15.020\(D\)](#), dog fighting;
17. Violation of BMC [9.10.040](#), discharge of firearms;
18. Frequenting a place where controlled substances are used as provided in ORS [167.222](#); or
19. Violation of BMC [8.15.080](#), noise prevention.

L. "Public place" means a building, way, **park or recreational area**, place or accommodation, whether publicly or privately owned, open and available to the general public.

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

N. "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.

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

P. "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.

Q. "Trackout" means the tracking of mud, soil, debris, or contaminant onto any street, alley, sidewalk, or public way. [Ord. 18-O-773 § 2 (Exh. A); Ord. 16-O-761 § 2; Ord. 14-O-736 § 2; Ord. 13-O-713 § 3; Ord. 11-O-686 § 2; Ord. 07-O-591 § 2; Ord. 93-O-406.A § 2; Ord. 86-O-406 § 1.

## 8.15.015 Policy

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, constitute a public nuisance by promoting 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 other circumstances generally injurious or detrimental to the health, safety and general welfare of the inhabitants and occupants of the city of Brookings. [Ord. 18-O-773 § 2 (Exh. A).]

## 8.15.020 Control of Animals

A. *Repealed by Ord. 14-0-736.*

B. The owner or keeper of any animal shall not allow such animal to be a public nuisance. An 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 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 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 animals, any animal which attacks a human being or domestic animal without provocation, or any animal owned or harbored primarily or in part for the purpose of 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 animal is allowed to run at large within the corporate limits of the city of Brookings.

F. The city of Brookings hereby adopts by reference all provisions as contained in [Curry County Code Section 4.01.030 through and including Section 4.01.200 et seq.](#)

G. The Brookings police department is authorized and directed to provide mutual aid assistance to county officers, employees and volunteers engaged in animal control activities within the city of Brookings.

H. 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.

I. No person shall permit the carcass of any animal owned or controlled by him to remain upon the public streets or ways or 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. 19-O-780 § 3 (Exh. B); Ord. 14-O-736 § 2; Ord. 14-O-729 § 2; Ord. 11-O-686 § 2; 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. *Repealed by Ord. 14-O-736.*<sup>1</sup>

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. 14-O-736 § 2; Ord. 11-O-686 § 2; Ord. 07-O-591 § 2; Ord. 93-O-406.A § 4; Ord. 86-O-406 § 3.]

## **8.15.040 Hazards**

No responsible party 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;

E. Failure to maintain or obstruction of private storm drainage conveyance. [Ord. 13-O-713 § 3; Ord. 11-O-686 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 4.]

## **8.15.045 Deteriorated Condition**

No owner or person in charge of property having frontage on Chetco Avenue, between the Chetco River Bridge and Easy Street; or Railroad Street, between Mill Beach Road and Alder Street, shall defer maintenance of a structure to cause or permit the following conditions:

A. Paint that is peeling, faded or mildewed over an area greater than 25 percent of any exterior wall area; windows and door openings shall be excluded from the area calculation.

B. Siding material that is failing over an area greater than 25 percent of any exterior wall; windows and door openings shall be excluded from the area calculation.

- C. Fascia board that is failing over an area greater than 25 percent of the fascia board.
- D. Roofing which is failing over an area greater than 25 percent of the roof area.

If any of the above conditions are deemed to be present, the building official shall file a report with the city manager who may declare such conditions as a public nuisance. The property owner shall be notified of such finding in the same manner as provided in BMC [8.15.090](#), General abatement procedure.

A property owner may appeal such finding of a public nuisance under this section to the city council within 15 days of the date of such notice. The city council shall hear the appeal within 30 days of receipt of an appeal, and shall render a decision within 15 days thereafter. [Ord. 14-O-740 § 2.]

### **8.15.050 Noxious Vegetation**

The Department of Agriculture has declared many 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](#).

Exception: Vegetation growing on slopes of greater than 15 percent or adjacent to a water course or body of water that is providing erosion control. [Ord. 11-O-686 § 2; 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.]

### **8.15.060 Scattering Rubbish**

*Repealed by Ord. 14-O-735.* [Ord. 11-O-686 § 2; 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 13.5 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. 11-O-686 § 2; 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 responsible party 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 in 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;
- C. Fail to maintain or cause the obstruction of a private storm drainage conveyance;
- D. No person shall, intentionally or unintentionally, allow any debris, water contaminant, or potential water contaminant to enter the city's storm drainage system;
- E. No person or persons shall allow any debris, contaminant, or potential contaminant to accumulate 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 drainage system, could cause a disruption to the proper functioning of the system and necessitate cleaning of any portion of the city storm drainage system. [Ord. 13-O-713 § 3; Ord. 11-O-686 § 2; 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. 11-O-686 § 2; 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 persons 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. 11-O-686 § 2; Ord. 10-O-674 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 9.]

## 8.15.083 Chronic Disorderly Property

A. When the chief of police receives two or more police reports documenting the occurrence of prohibited activity on or within 200 feet of a property in a residential neighborhood within the city, the chief of police will independently review the reports to determine whether they describe prohibited activities enumerated in BMC [8.15.010](#). Upon such a finding, the chief of police may take the following actions:

1. Notify the person in charge of property, in writing, that the property is in danger of becoming a chronic disorderly property. The notice must contain the following information:
  - a. The street address or legal description sufficient for identification of the property.
  - b. A statement that the chief of police has information that the property may be a chronic disorderly property, with a concise description of the prohibited activities that may exist, or that have occurred.
  - c. Demand that the person in charge of property respond to the chief of police within 10 days to discuss the prohibited activities.

B. After notification of the occurrence of prohibited activities to the person in charge of property, when the chief of police receives a police report documenting the occurrence of a third prohibited activity at or within 200 feet of a property within a 60-day period and determines that the property has become a chronic disorderly property, the chief of police must:

1. Notify the person in charge of property in writing that the property is a chronic disorderly property. The notice must contain the following information:
  - a. The street address or legal description sufficient for identification of the property.
  - b. A statement that the chief of police has determined the property to be a chronic disorderly property with a concise description of the prohibited activities leading to the finding.
  - c. Demand that the person in charge of property respond within 14 days to the chief of police and propose a course of action (“abatement plan”) to abate the prohibited activities giving rise to the violation. The abatement plan may include actions such as measures to increase security, evict problem tenants, or change business practices, such as operating hours. The abatement plan must also include a timeline for implementation.
  - d. Service must be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge of property at the address of the property determined to be a chronic disorderly property, or any other place which is likely to give the person in charge of property notice of the determination.
  - e. A copy of the notice must also be served on the owner at the address shown on the tax rolls of the county in which the property is located, and the occupant, at the address of the property, if these persons are different from the person in charge of property, and must be made either personally or by first class mail, postage prepaid.
  - f. A copy of the notice must also be posted at the property.
  - g. The failure of any person to receive notice that the property may be a chronic disorderly property, if notice was given in accordance with subsections (B)(1)(d), (e) and (f) of this section, will not invalidate or otherwise affect the proceedings under this section.

2. Chronic disorderly property, as defined by BMC [8.15.010](#), is entitled only to the notification requirements of subsection (B) of this section.

3. The chief of police will review and approve or deny the abatement plan within 10 days of its receipt. If the abatement plan is approved, the person in charge of property must proceed in accordance with the plan. If the abatement plan does not result in the abatement of the prohibited activity(s) or if no plan for abatement is approved within the time allowed, then the chief of police may refer the matter to the city attorney to commence a legal proceeding to abate the nuisance caused by the chronic disorderly property.

4. Concurrent with the notification procedures set forth in subsections (A) and (B) of this section, the chief of police will send copies of the notice, as well as any other documentation which supports legal proceedings against the property, to the city attorney.

C. When a person in charge of the property makes a response to the chief of police as required by subsection (B)(1)(c) of this section, any conduct or statements made in connection with the furnishing of that response do not constitute an admission that any prohibited activities have occurred or are occurring. This subsection does not require the exclusion of any evidence that is otherwise admissible or offered for any other purpose. [Ord. 18-O-773 § 2 (Exh. A).]

## **8.15.084 Chronic Disorderly Property - Enforcement**

A. Commencement of Action.

1. In an action seeking the closure of a chronic disorderly property, the city will have the initial burden of proof to show by a preponderance of the evidence that the property is a chronic disorderly property.

2. It is a defense to an action for chronic disorderly property that neither the owner nor the person in charge of property at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic disorderly property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is a chronic disorderly property.

3. In establishing the amount of any civil penalty requested, the court may consider the following factors:

- a. The actions taken by the owner, or other person in charge of property, to mitigate or correct the problem at the property;
- b. Whether the problem at the property was repeated or continuous;
- c. The magnitude or gravity of the problem;
- d. The cooperativeness of the owner, or other person in charge of property, with the city;
- e. The cost to the city of investigating and handling the problem;
- f. Any other factor the court deems relevant.

B. Closure During Pendency of Action. If it is determined that the property is an immediate threat to the public health, safety and welfare, the city may apply to the court for interim relief deemed by the city to be appropriate, including the temporary closure of the property.

C. Enforcement of Closure Order – Civil Penalties.

1. If the court determines property to be chronic disorderly property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30, but not more than 180, days. The court may employ any other remedy(s) it deems appropriate to abate the prohibited activity(s) in addition to or instead of closure of the property. The court may authorize the city to physically close the property against use or occupancy if the owner fails to do so within the time specified in the court's order. The court will retain jurisdiction during any period of closure.

2. In addition to the remedies provided in subsection (C)(1) of this section, the court may impose upon the owner of the property/person in charge of property a civil penalty in the amount of up to \$500.00 per day, payable to the city, for each day the owner/person in charge of property had actual knowledge that the property was a chronic disorderly property and permitted the property to remain a chronic disorderly property. The owner/person in charge of property is considered to have actual knowledge if notice was provided to the owner/person in charge of property in accordance with BMC [8.15.083](#). The penalties must be set forth as part of the court's judgment.

3. If the city is authorized to secure the property, all costs reasonably incurred by the city to effect the closure will be awarded to the city as part of the judgment.

- a. "Costs" means those costs actually incurred by the city for the physical securing of the structures on the property and any attorneys' fees awarded by the court.
- b. The city manager may prepare a statement of costs and submit it to the court for its review as prescribed by Oregon Rule of Civil Procedure 68.

4. Any monetary judgment imposed pursuant to this chapter will bear interest at the statutory rate.

5. A lien will be created against the property for the amount of the city's monetary judgment and will be entered in the city's lien docket.

6. Unless otherwise specifically ordered by the court, all persons who are assessed a civil penalty by the court will be jointly, severally and personally liable for payment to the city.

D. Relief from Closure Order.

1. An owner of property determined to be a chronic disorderly property may obtain relief from the court's order if:
  - a. The owner of the property appears and pays all costs associated with proceedings under this chapter;

- b. The owner of the property files a bond in such a place and form as the court may by order direct in an amount not less than the tax-assessed value of the property, and maintains said bond in force for a period of not less than one year or for such period as the court directs; and
  - c. The owner enters into a stipulation with the city that he or she will immediately abate the conditions giving rise to the chronic disorderly property and prevent the same from being established or maintained for a period of one year thereafter. The stipulation will then be made part of the court's order.
2. If the owner violates the terms of the stipulation, the city may apply to the court for an order awarding up to the entire amount of the bond to the city as a penalty and such other relief, including closure for an additional period of up to one year.

E. Attorneys' Fees. In an action seeking closure of the property under this chapter, the court may, in its discretion, award attorneys' fees to the prevailing party.

F. Cumulative Remedies. The rights and penalties provided in this chapter are cumulative and not exclusive, and are in addition to any other rights, remedies and penalties available to the city under other provision of law. The city's actions in pursuit of remedies under this chapter are not to be construed as an election of remedies and such other remedies as may be available by law may also be pursued. [Ord. 18-O-773 § 2 (Exh. A).]

## 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 as a dwelling within the city of Brookings except when parked within a licensed recreational vehicle park. Notwithstanding the immediately preceding sentence, A one recreational vehicle or travel trailer may be used for temporary sleeping purposes as a temporary dwelling 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. 11-O-686 § 2; Ord. 09-O-642 § 2; Ord. 07-O-591 § 2.]

## 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. [Ord. 16-O-761 § 3; Ord. 11-O-686 § 2; 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:

- A. Unmistakably exists or which imminently endangers human life or property; or
- B. A property owner had been cited for previously within a 12-month period. [Ord. 19-O-780 § 3 (Exh. B); Ord. 11-O-686 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 11.]

### **8.15.110 Penalties**

Pursuant to Chapter [1.05](#) BMC. [Ord. 11-O-686 § 2; Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 86-O-406 § 12.]

# Exhibit B

## Changes to Brookings Municipal Code:

(Additional are **bold and underlined**, deletions are ~~bold and strikeout~~)

## Chapter 8.20 UNLAWFUL DISPOSAL OF SOLID WASTE AND LITTERING

Sections:

8.20.010 Definitions.

8.20.020 Unlawful disposal of solid waste.

8.20.030 Scattering rubbish.

8.20.040 Penalty.

### 8.20.010 Definitions

A. "Person" means any natural person, association, partnership or corporation or any other legal entity or entity in fact.

B. "Right-of-way" as used in this chapter, means any highway, road, street, alley, lane, trail, sidewalk, access, **or the cleared areas immediately adjacent and running parallel to such transit areas**, other public way, or any beach, park, recreational facility or other similar facility owned ~~or and~~ operated by the state of Oregon, Curry County, or the city of Brookings, and located within the corporate limits of the city of Brookings.

C. "Solid waste" means all solid or semisolid waste material, including, but not limited to: garbage; rubbish; refuse; **feces**; trash; ashes or swill; newsprint or waste paper; corrugated board or cardboard; grass clippings; compost; residential, commercial, industrial, governmental or institutional wastes; discarded home or industrial appliances, equipment or furniture; vehicle parts or tires; animal parts or wastes. [Ord. 14-O-735 § 2.]

### 8.20.020 Unlawful Disposal of Solid Waste

A. Except as provided by subsection (B) of this section, no person shall deposit solid waste ~~produced by the person or any business owned by the person or with which the person is associated as an employee or agent~~ in or **about near** any solid waste receptacle owned or rented by another person, without first obtaining the permission of that person.

B. No person shall deposit solid waste produced ~~by the person or any business owned by the person or with which the person is associated as an employee or agent~~ on any publicly owned property, **including but not limited to parks and recreation areas**.

C. No person shall use, or attempt to use, any publicly owned solid waste receptacle as a means to dispose of residential, commercial, or industrial solid waste ~~regularly generated by the person or any business owned by the person or with which the person is associated as an employee or agent~~. [Ord. 14-O-735 § 2.]

### 8.20.030 Scattering Rubbish

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance, **including solid waste**, 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 right-of-way. [Ord. 14-O-735 § 2.]

## **8.20.040 Penalty**

Any violation of the provisions of this chapter shall, upon conviction thereof, be punished pursuant to Chapter [1.05](#) BMC, General Penalty, except that the fine shall not be less than \$100.00 for the first offense. [Ord. 14-O-735 § 2.]

# Exhibit C

## Changes to Brookings Municipal Code:

(Additional are **bold and underlined**, deletions are ~~bold and strikeout~~)

## Chapter 10.10 PARKING

Sections:

- [10.10.010 Method of parking.](#)
- [10.10.020 Parking of oversize vehicles.](#)
- [10.10.030 Use of loading zone.](#)
- [10.10.040 Use of passenger loading zone.](#)
- [10.10.050 Stopping, standing, or parking of buses and taxicabs regulated.](#)
- [10.10.060 Restricted use of bus and taxicab stands.](#)
- [10.10.070 Prohibited parking.](#)

### 10.10.010 Method of Parking

- A. No person shall stand or park a vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb, except where the street is marked or signed for angle parking, in which case motor vehicles shall be parked with the front head-in to the curb at the angle of and between painted stripes or other markings upon the pavement where such head-in parking is indicated.
- B. Where parking space markings are placed on a street, no person shall stand or park a vehicle other than at the indicated direction and within a single marked space.
- C. Whenever the owner or driver of a vehicle discovers that such vehicle is parked immediately in front of or close to a building to which the fire department has been summoned, he shall immediately remove such vehicle from the area unless otherwise directed by police or fire officers. [Ord. 06-O-572 § 1; Ord. 61-O-157 §10.]

### 10.10.020 Parking of Oversize Vehicles

Any vehicle which because of its size or shape cannot be parked as provided by BMC [10.10.010](#) may be parked outside the restricted or limited parking area of the city in a manner which will not impede or interfere with vehicular traffic. [Ord. 61-O-157 § 11.]

### 10.10.030 Use of Loading Zone

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials or freight in any place designated as a loading zone during the hours when the provisions applicable to loading zones are in effect. In no case shall the stop in an unmetered loading zone for loading and unloading of passengers and personal baggage exceed 30 minutes, nor the loading or unloading of materials exceed 30 minutes. [Ord. 61-O-157 § 13.]

### 10.10.040 Use of Passenger Loading Zone

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of passengers in any place designated as a passenger loading zone during the hours when the provisions applicable to passenger loading zones are in effect. [Ord. 61-O-157 § 14.]

### 10.10.050 Stopping, Standing, or Parking of Buses and Taxicabs Regulated

The driver of a bus or taxicab shall not stand or park such vehicle upon any street in any business district at any place other than at a bus stand or taxicab stand, respectively, except that this provision shall not prevent the driver of any taxicab from temporarily stopping for the purpose of and while actually engaged in the loading or unloading of passengers. [Ord. 61-O-157 § 15.]

### 10.10.060 Restricted use of Bus and Taxicab Stands

No person shall stop, stand, or park a vehicle other than a bus in a bus stand or other than a taxicab in a taxicab stand, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab about to enter or using such zone. [Ord. 61-O-157 § 16.]

### **10.10.070 Prohibited Parking**

In addition to provisions of the Motor Vehicle Laws of Oregon pertaining to prohibited parking, no person shall park:

A. A vehicle upon any bridge or elevated structure used as a street, unless otherwise indicated by lawfully installed signs.

B. A vehicle in any alley for any purpose other than to load or unload materials not to exceed 45 minutes.

C. A vehicle upon any street for the principal purpose of:

1. Displaying such vehicle for sale.

2. Repairing such vehicle except for repairs necessitated by an emergency.

3. Displaying merchandise from such vehicle.

4. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the ordinances of this city.

5. Storage for more than 72 hours, except that a licensed and operable vehicle parked in front of the vehicle owner's residence may exceed the time limit.

**6. Inhabiting the vehicle as a dwelling**

D. A vehicle upon any parkway except where specifically authorized.

E. A vehicle leaving a child or children under 12 years of age inside, unless said child or children are uninterruptedly attended by a competent person of at least 18 years of age.

F. A vehicle in violation of the Oregon Vehicle Code or in violation of a parking limitation device. Where maximum parking time limits are designated, moving a vehicle to another parking space within the same block or parking lot shall not extend the time limits for parking.

G. A nonmotorized vehicle or trailer that is not connected to a tow vehicle in city owned or leased parking lots.

[Ord. 16-O-758 § 2; Ord. 08-O-602 § 2.]

# Exhibit D

## Changes to Brookings Municipal Code:

(Additional are **bold and underlined**, deletions are ~~bold and strikeout~~)

## Chapter 12.10 SIDEWALKS<sup>1</sup>

Sections:

12.10.010 Applicability.

12.10.020 Definitions.

12.10.030 Declaration of the city's jurisdiction over sidewalks.

12.10.040 Prohibition against blocking sidewalks.

12.10.050 Permit and fee required.

12.10.055 Compliance with Americans with Disabilities Act standards.

12.10.060 Exemption for installation of sidewalks.

12.10.070 Violations and penalty.

### 12.10.010 Applicability

This chapter shall apply only to sidewalks located within the public right-of-way. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

### 12.10.020 Definitions

For purposes of this chapter:

A. "Sidewalk" shall mean a walk or footway for pedestrians constructed out of material other than the ground traversed by the walk or footway and located in the public right-of-way.

B. "Nonconforming sidewalk" shall mean any sidewalk constructed that is not in conformance with BMC Title 18. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

### 12.10.030 Declaration of the City's Jurisdiction over Sidewalks

The city of Brookings claims, maintains, exerts, and reserves jurisdiction over all sidewalks within the public right-of-way of the city of Brookings. Engineering requirements and standards for sidewalk improvements are contained in BMC Title 18. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

### 12.10.040 Prohibition against blocking Sidewalks

It shall be prohibited to obstruct or in any way restrict **or impede free transit on sidewalks within the public right of way; or to narrow** the width of the sidewalk unless specifically approved by the site plan committee. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

### 12.10.050 Permit and Fee Required

A public works permit and inspection fee are required as provided under Chapter 12.45 BMC. Engineered documents will also require a public works plan review fee. Fees are determined as provided under Chapter 1.10 BMC. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

### 12.10.055 Compliance with Americans with Disabilities Act Standards

A. Location of all temporary and permanent fixtures, including trash receptacles, mailboxes, light fixtures, fire hydrants and other infrastructure, must provide minimum Americans with Disabilities Act (ADA) accessibility clearance as determined by current ADA standards. Current standards may be obtained from the public works department.

B. A survey may be required prior to sidewalk installation in order to ensure current ADA compliance. [Ord. 12-O-704 § 2.]

### 12.10.060 Exemption for Installation of Sidewalks

Unless a project meets the exemptions listed in BMC [17.04.070](#) or is specifically exempted by the site plan committee, a conforming sidewalk must be constructed along the full length of the property abutting the street frontages. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

## **12.10.070 Violations and Penalty**

A violation of any section of this chapter shall be punishable as provided under Chapter [1.05](#) BMC. [Ord. 12-O-704 § 2; Ord. 09-O-624 § 2.]

<sup>1</sup>Prior legislation: Ords. 55-O-073 and 66-O-186.

<sup>2</sup>Code reviser's note: This section, which was added as BMC [12.10.060](#) by Ord. 12-O-704, has been editorially renumbered as BMC [12.10.055](#) to avoid duplication of numbering.

# Exhibit E

## Changes to Brookings Municipal Code:

(Additional are **bold and underlined**, deletions are ~~bold and strikeout~~)

## Chapter 12.25 PUBLIC PARKS AND RECREATIONAL AREAS

Sections:

12.25.010 City-owned public parks and city-owned public recreational areas hours.

12.25.012 Rules and regulations specific to city-owned parks.

12.25.015 Dogs prohibited in East Manor Park.

12.25.016 Dogs prohibited in Kidtown playground at Azalea Park.

12.25.017 Smoking prohibited in designated park areas.

12.25.020 Exceptions.

12.25.030 Penalties.

### 12.25.010 City-Owned Public Parks and City-Owned Public Recreational Areas Hours

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.]

### 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. For the purposes of this subsection, an event is any gathering that includes but is not limited to: any weddings, memorials, athletic activities, concerts, holiday displays, picnics or other instances where the permit applicant wishes to reserve a specific area of the park for their exclusive use or desires to exclusively use the snack shack, bandshell or Capella. An event also includes any instance involving the erection of any structures, dwellings, tents, or tables; any restriction of access to all or part of a park by the general public; or any activities which include the use of amplified sound; or the conduct of commercial business.**
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, **subject at all times to any applicable burning bans.**

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.

**21. Any conduct constituting a violation of any nuisance or public health, safety, and welfare laws, rules, or regulations**

#### B. Penalties and Fines.

**1. The City may at its discretion provide a verbal or written warning or may impose a civil fine for violations of this Ordinance.** 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. If: 1) a person poses an immediate threat to the public health, safety, or welfare in a park or recreational area; or 2) the City has provided at least one documented verbal or written warning to a person regarding a violation of this Chapter which occurred in a park or recreational area, the City may temporarily exclude that person from using or entering any or all city-owned parks or recreation areas for a limited time not to exceed 12 months. The duration of such exclusions shall be commensurate with the observed violations. Such exclusion orders shall be subject to the appeal provisions in Section 12.25.040 below.**

3. If a person is given a **warning or** 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~~ **may** be subject to additional citations, ~~may and/or~~ **be excluded from the park or recreation area or may be charged with** immediate **criminal** trespass under ORS 164.245. [Ord. 13-O-708 § 2; Ord. 10-O-667 § 2.]

### 12.25.015 Dogs Prohibited in Easy Manor Park

Dogs are prohibited in Easy Manor Park, except for dog guides as defined in ORS 346.610. [Ord. 10-O-662 § 2.]

### 12.25.016 Dogs Prohibited in Kidtown Playground at Azalea Park

Dogs are prohibited in Kidtown playground at Azalea Park, except for dog guides as defined in ORS 346.610. [Ord. 10-O-664 § 2.]

### 12.25.017 Smoking Prohibited in Designated Park Areas

A. Persons are prohibited from smoking in city parks **or recreation areas** at all times.

B. Penalties under this section shall be \$75.00 for each separate offense. [Ord. 15-O-746 § 2; Ord. 13-O-718 § 2; Ord. 12-O-690 § 2.]

### 12.25.020 Exceptions

A. The city manager **or designee** may, **at their discretion, adopt written rules further explaining or applying this Ordinance. They may also, upon prior application,** permit **the** 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.

**B. 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 sunrise until midnight, daily.**

**C. During times when parks and recreation areas are closed for public use, lighted sports courts or playing fields located within a City park or recreational area may be used by the public pursuant to the terms of an authorized use permit or until the City turns off the lights. Such use remains subject to all other City and state laws, rules, and regulations. [Ord. 16-O-759 § 2; Ord. 94-O-505 § 2.]**

## **12.25.030 Penalties**

Unless otherwise provided in this chapter, any violation of the provisions of this chapter shall, upon conviction thereof, be punished pursuant to Chapter [1.05](#) BMC, General Penalty. [Ord. 10-O-662 § 2; Ord. 94-O-505 § 3.]

## **12.25.040 Appeal of Exclusion Orders Cited under this Ordinance**

**A. A person issued a park exclusion under this Ordinance may appeal by filing at City Hall within five working days a written statement containing the person's full name; the date and location of the exclusion; and an explanation of why the person believes the exclusion was wrongly issued or was incorrect. Failure to include all information required or failure to file within five working days shall void the appeal. The City Manager may extend the appeal filing deadline at his or her discretion.**

**B. City staff shall date the appeal statement and forward it to the City Manager within two working days of receipt, along with the enforcement officer's exclusion order and written explanation.**

**C. The City Manager shall review the appeal materials in Section B above, along with any other information the City Manager deems relevant and necessary to make a fair and unbiased determination. The City Manager shall within five working days issue a written decision that either: 1) upholds or denies the exclusion; or 2) amends the exclusion. The City Manager's decision shall also provide reasoning for the decision. If an appeal is received by the City, the exclusion shall not take effect until after the City Manager's appeal determination is made.**

**D. Appeals of the City Manager's decision may be filed within five working days after the City Manager's decision at the Brookings Municipal Court, pursuant to the Court's rules and procedures.**

# Exhibit F

## Changes to Brookings Municipal Code:

(Additional are **bold and underlined**, deletions are ~~bold and strikeout~~)

### Chapter 12.45 PUBLIC RIGHTS-OF-WAY

Sections:

- [12.45.010 Purpose.](#)
- [12.45.020 Definitions.](#)
- [12.45.030 Permit required.](#)
- [12.45.040 Permit procedure and requirements.](#)
- [12.45.050 Fees and charges.](#)
- [12.45.060 Permit restrictions.](#)
- [12.45.070 Violation and penalty.](#)
- [12.45.080 Claims.](#)

#### 12.45.010 Purpose

The public works department is responsible for all city public rights-of-way and public infrastructure. This includes any infrastructure, above and below ground, dedicated for public use. [Ord. 12-O-703 § 2.]

#### 12.45.020 Definitions

For purposes of this chapter:

A. "Encroachment" refers to a privately owned and maintained structure **(such as a mailbox, trash receptacle, or other object)** located in the right-of-way, and could impede or pose a safety threat to traffic or transit. ~~such as a mailbox, except for trash receptacles during the day of trash pick up.~~

B. "Permittee" refers to the owner and/or contractor as named on the public works permit. [Ord. 12-O-703 § 2.]

**C. "Right-of-way" as used in this chapter, means any highway, road, street, alley, lane, trail, sidewalk, access, or the cleared areas immediately adjacent and running parallel to such transit areas, other public way, or any beach, park, recreational facility or other similar facility owned and operated by the state of Oregon, Curry County, or the city of Brookings, and located within the corporate limits of the city of Brookings.**

#### 12.45.030 Permit Required

A. Public Works Permit and Inspection. A public works permit and inspection are required for any construction, or construction related activity, that takes place within a city public right-of-way, easement, and/or city maintained facility.

B. Right-to-Use Permit. A right-to-use permit is required for any encroachment in the city public right-of-way. [Ord. 12-O-703 § 2.]

#### 12.45.040 Permit Procedure and Requirements

A. Permit applications shall be submitted to the city public works department. The application shall include a sketch or engineered plan as specified under BMC 18.05.007, and shall comply with all relevant conditions specified in BMC Title 18.

B. Permit applications shall be reviewed for compliance with BMC Title 18. Approved applications shall be issued within 20 days of application. Written notification of an incomplete application shall be issued within 10 days of submittal.

C. Prior to issuance, a permit time limit shall be established. The city shall allow a reasonable time for completion given current circumstances. All work under the permit shall be completed within the set time limit.

D. Permit approval shall be provided by public works staff, as authorized by the city manager.

E. All applicable fees must be paid in full prior to permit approval. [Ord. 12-O-703 § 2.]

#### 12.45.050 Fees and Charges

Fees and charges under this chapter shall be adopted by the Brookings master fee resolution as provided under Chapter 1.10 BMC. [Ord. 12-O-703 § 2.]

### **12.45.060 Permit Restrictions**

No new permit as defined in this chapter shall be issued to any entity or person whose work has necessitated city action for failure to perform or complete the work as approved. [Ord. 12-O-703 § 2.]

### **12.45.070 Violation and Penalty**

The permittee shall be notified in writing of any violation of this chapter. Failure to remedy the violation within the specified time limit provided in the notification, or to obtain a permit for any activity described in this chapter, shall be punishable as provided under Chapter [1.05](#) BMC. [Ord. 12-O-703 § 2.]

### **12.45.080 Claims**

Acceptance or approval by the city of any public works improvements shall not prevent the city from asserting a claim against the permittee for any incomplete or defective work found within 12 months of project completion. [Ord. 12-O-703 § 2.]