

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING THE BRIGHTON MUNICIPAL CODE BY REPEALING CERTAIN PROVISIONS OF ARTICLE 8-4, GENERAL HEALTH PROVISIONS, AND ARTICLE 8-8, VEGETATION, RUBBISH AND JUNK CONTROL RELATED TO NUISANCES, WEEDS, DANGEROUS TREES, RUBBISH, REFUSE AND JUNK, AND THE ABATEMENT THEREOF; THE ADOPTION OF NEW SECTION 8-4-10, ABATEMENT OF DANGEROUS PREMISES, SECTION 8-4-40, RIGHT OF ENTRY FOR INSPECTION, SECTION 8-4-50, RULES AND REGULATIONS ESTABLISHED BY CITY MANAGER, SECTION 8-4-60 DEFINITIONS, SECTION 8-4-70 VIOLATIONS, PENALTIES AND NUISANCE DECLARED, and ARTICLE 8-6, ABATEMENT OF NUISANCES, ARTICLE 8-8, VEGETATION, RUBBISH AND JUNK CONTROL; AND SETTING FORTH DETAILS IN RELATION TO THE FOREGOING.**

**ORDINANCE NO. 2212**

**INTRODUCED BY: Kreutzer**

**WHEREAS**, the City Council has the authority to declare what shall be public nuisances and to abate the same with respect to the territory within the City; and

**WHEREAS**, the City Council finds that the offensive conditions specified in this ordinance and listed by way of illustration below are detrimental to the public health, safety, and welfare of the citizens of the City, specifically, among other reasons, because such conditions tend to depreciate property values, create conditions dangerous to others, harbor insects and attract vermin, cause traffic and safety hazards, cause visual blight, and interfere with the use and enjoyment of property, and the City Council therefore hereby declares the same to be a public nuisance:

- (1) An overgrowth of weeds, particularly noxious weeds, and high grasses;
- (2) Damaged or dead trees and boughs;
- (3) Accumulation of refuse, rubbish and/or junk;
- (4) Inoperable vehicles, and hazardous dilapidated vehicles and parts; and
- (5) Construction materials and debris; and

**WHEREAS**, the City Council finds that the process of administrative abatement of nuisances provides an enforcement mechanism to expeditiously resolve nuisance violations, and induce more frequent voluntary compliance with such regulations as compared to the prosecution of violations in the Municipal Court; and

**WHEREAS**, the City Council finds that continuing violations of nuisance regulations on any property is a further chronic detriment to the public health, safety and welfare of the citizens of the City, and should be subject to abatement and assessment of the costs thereof as well as prosecution for such violations; and

**WHEREAS**, the principal objectives of this ordinance are:

- A. To prevent injury and illness to occupants of property and the public and to remove public nuisances.

- B. To provide citywide standards for the abatement of public nuisances including, but not limited to rubbish, weeds, noxious vegetation, refuse, junk, unsafe trees, and dangerous and unsanitary conditions.
- C. To establish responsibility of involved parties and assure that people are not unnecessarily exposed to dangers of public nuisances.
- D. To ensure proper actions are taken to abate public nuisances; and

**WHEREAS**, this Ordinance is enacted to protect the health, safety, and general welfare of the people of the City of Brighton pursuant to powers granted under Section 6, Article XX, of the Constitution, C.R.S. §31-15-401, and the Charter of the City of Brighton.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AS FOLLOWS:**

**SECTION 1.** The following provisions of the Brighton Municipal Code are hereby repealed:

Article 8-8. Vegetation, Rubbish and Junk Control

Division 1. *Weeds, Brush, Rubbish and Junk*

- Sec. 8-8-10 Definitions
- Sec. 8-8-20 Weed grass or brush growth unlawful
- Sec. 8-8-30 Removal of weed, grass, brush, rubbish, debris or Junk
- Sec. 8-8-40 Noxious plants prohibited
- Sec. 8-8-50 Removal of noxious plants
- Sec. 8-8-60 Burning unlawful; exception
- Sec. 8-8-70 Notice upon failure to remove
- Sec. 8-8-80 Failure to remove, abatement, costs
- Sec. 8-8-90 Notice not prerequisite to prosecution
- Sec.8-8-100 Duty to pay costs
- Sec. 8-8-110 Method of payment
- Sec.8-8-120 Objection to cost, hearing
- Sec. 8-8-130 Collection by County
- Sec. 8-8-135 Exceptions

Division 2. *Trees and Plants*

- Sec. 8-8-140 Neglect of trees, unlawful
- Sec. 8-8-150 Notification of damage or injury
- Sec. 8-8-160 Removal of dead tree
- Sec. 8-8-170 Right of entry for inspection
- Sec. 8-8-180 Rules and regulations established by City Manager
- Sec. 8-8-190 Tree species prohibited
- Sec. 8-8-200 Spacing of trees
- Sec. 8-8-210 Failure to remove, notice
- Sec. 8-8-220 Abatement, costs

- Sec. 8-8-230 Notice not prerequisite to prosecution
- Sec. 8-8-240 Payment of costs required
- Sec. 8-8-250 Method of payment
- Sec. 8-8-260 Objection to costs
- Sec. 8-8-270 Collection by County
- Sec. 8-8-280 Violation, penalty

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- Sec. 8-24-110 Accumulation of rubbish and debris (defined)
  - Sec. 8-24-130 Abatement of nuisance
  - Sec. 8-24-140 Health Officer and City Manager inspection and enforcement
  - Sec. 8-24-150 Notice to owner upon failure to abate
  - Sec. 8-24-160 City to perform work; costs
  - Sec. 8-24-170 Notice of violation not required
  - Sec. 8-24-180 Owner to pay abatement costs
  - Sec. 8-24-190 Abatement costs to whom paid
  - Sec. 8-24-200 Objection to assessment
  - Sec. 8-24-210 Collection of costs

**SECTION 2.** Article 8-4, **General Health Provisions** of the Brighton Municipal Code is amended by the addition of:

- Section 8-4-10            **Abatement of unsanitary or dangerous premises; nuisance.**
- Section 8-4-40           **Right of entry for inspection; notice to correct condition.**
- Section 8-4-50           **Rules and regulations established by City Manager;**
- Section 8-4-60.         **Definitions; and**
- Section 8-4-70           **Violations, Penalties, and Nuisance declared;**

and the current Sections 8-4-10. **Hindering Health Officer** and 8-4-20. **Lien** are renumbered as 8-4-20 and 8-4-30, respectfully.

**Section 8-4-10 Abatement of unsanitary or dangerous premises; nuisance.**

(a) If either the City Manager, the Building Official or the Fire Marshal determines that any premises within the City are dangerous to the life or property of persons or constitute a fire hazard, is a nuisance as provided in this Chapter; or is unsanitary, as determined by the Tri-County Health Department, a written notice of such condition shall be given by the City to the owner, agent or occupant of the property ordering the premises to be put in a safe, proper or sanitary condition within such period as is set out in the notice and order.

(b) If the owner, agent or occupant of the premises fails or refuses to comply with the order of any of the officers within the time given in the order, then the matter of the failure or refusal to comply with the order shall be subject to the rules and regulation established by the City Manager promulgated in accordance with Section 8-4-50 and

abatement thereof in accordance with Article 8-6. Abatement of Nuisances, as the same may be amended.

**Sec. 8-4-40. Right of entry for inspection; notice to correct condition.**

The City Manager, or Manager's designee, is authorized to enter upon any outside property in the City to inspect such property in accordance with Article 1-20. **Right of entry for inspection** of the Brighton Municipal Code, as the same may be amended. Upon discovering any nuisance, dangerous or unsanitary condition in violation of the Brighton Municipal Code or is detrimental to the public health, safety and welfare, the City Manager shall give written notice as provided in Section 8-6-30 **Notice of violation** to the owner, agent or occupants of the premises whereon the same is located, of the conditions thereof and direct such owner, lessee, agent or occupant to correct such conditions.

**Sec. 8-4-50. Rules and regulations established by City Manager.**

The City Manager shall have the authority to promulgate, amend and adopt such rules, regulations, and specifications related to the abatement of nuisances or unsanitary or unsafe conditions; provided, however, that any such rules, regulations and specifications must be for the protection of the general health, safety and welfare of the citizens of the City.

**Sec. 8-4-60. Definitions.**

When not clearly otherwise indicated by the context, the following words and phrases used in this Chapter have the following meanings:

**Brush pile** shall mean an accumulation of cuttings or dead portions of trees and shrubs.

**Compost** shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning *soil* which is contained in a compost barrel, fenced area, or other identifiable enclosure.

The term "**developed**" as used in this Chapter shall mean any lot, property or tract where there is any type of structure, excluding signs, whether partial or complete, or any preliminary grading or excavation. A lot, property, or tract shall not be considered developed solely because of the preparation, approval, and recordation of a plat, the installation of streets, or the installation of utility lines.

**Grass** shall mean any monocot plants of the family Poaceae, excluding any plants that are weeds, as that term is defined hereinafter.

**Hazardous tree** means any dead, damaged, or infected tree, dangerous to the life, limb, or property of someone not on the same property as the tree, determined by the City Manager or the Manager's designee.

**Junk** means any manufactured good, appliance, fixture, furniture, machinery, motor vehicle or trailer that is abandoned, demolished or dismantled, or that is so worn, deteriorated or in such condition as to be unusable in the existing state, and scrap metal, scrap material, waste, bottles, tin cans, lumber garbage, boxes, crates, rags, used lumber, building materials, motor vehicle parts, machinery parts and used tires, any or all of which have been discarded or are unusable in the existing state.

**Lot** includes any real property in single or joint ownership whose boundaries encompass less than five acres.

**Noxious weeds** means any weed species such as ragweed, thistle, knapweed, bindweed, or any Type A, B or C list noxious weeds, as classified by the State of Colorado Noxious Weed Act (C.R.S. § 35-5.5-101 et seq.).

**Open area** shall mean real property zoned as open space or designated transition or any other undeveloped real property in single, common or joint ownership.

**Owner or occupant** includes any person who alone, jointly or severally with others:

(1) Has a legal or equitable interest in, or possession or control of, a dwelling unit, lot, open area, or any real property, with or without accompanying actual possession thereof;

(2) Acts as the agent of a person having a legal or equitable interest in a lot, open area, or any real property, dwelling or dwelling unit thereof; or

(3) Is the general representative or fiduciary of an estate through which a legal or equitable interest in a lot, open area, any real property or dwelling unit.

**Property** shall mean, in addition to the owner's lot or property of land whether improved or vacant, the area to the center of any alley, street, or other right-of-way abutting the lot or property of land; any easements on or under the lot or property of land; and the sidewalk, curb, gutter and parking area of any street abutting such lot or property of land.

**Refuse** shall mean solid and liquid wastes, except hazardous wastes, whether putrescible or nonputrescible, combustible or noncombustible, organic or inorganic, including but not limited to wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width or breadth.

For purposes of this Chapter, the term “**right-of-way**” or “**public right-of-way**” means and includes the traveled and non-traveled portion of any street or alley.

**Rubbish** means and includes all waste and litter, whether combustible or noncombustible, trash, garbage, refuse of any kind, including but not limited to ashes, cans, paper, wrappings, cigarettes, cardboard, branches, wood, waste building materials, glass, crockery, abandoned household furnishings, carcasses, or dead animals and other like materials.

**Shrub** means a woody plant with several perennial stems that may be erect or may lay close to the ground. It will usually have stems no more than three inches in diameter, a “bush.”

**Unsafe trees** includes those trees or their parts within the boundaries of any lot or open area which may be considered troublesome, diseased, defective, or hazardous or which in any way endanger the security or usefulness of any public street, highway, alley, sidewalk, or abutting property.

**Weeds** means any vegetation, including woody shrubs, not intentionally cultivated or part of a planned and maintained landscape.

**Sec. 8-4-70. Violations, penalties, and nuisance declared.**

(a) It is unlawful for any person to violate any of the provisions of this Chapter 8. **Health and Safety**. Any such violation is hereby designated a criminal offense, and any person found guilty of violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine or imprisonment, or both, pursuant to Article 1-24 **General Penalty** of this Code, as it may be amended. Each day that a violation of any of the provisions of this Chapter continues to exist may be deemed a separate and distinct violation.

(b) The conduct of any activity or maintenance of any property in violation of this Chapter is hereby declared to be a public nuisance, which may be abated pursuant to the provisions of Article 8-6. **Abatement of nuisances** as it may be amended.

**SECTION 3.** Chapter 8, **Health and Safety** of the Brighton Municipal Code is amended by the adoption of a new Article 8-6. **Abatement of nuisances** to read as follows:

**ARTICLE 8-6. ABATEMENT OF NUISANCES**

**Sec. 8-6-10. City Manager inspection and enforcement.**

**Sec. 8-6-20. Abatement of nuisance.**

**Sec. 8-6-30 Notice of violation.**

**Sec. 8-6-40. Weeds and Grass - Notice to cut weeds.**

**Sec. 8-6-50 Trees - Notice to cut or remove trees.**

**Sec. 8-6-60. Notice to maintain landscaping.**

**Sec. 8-6-70. Failure to abate; abatement by City; costs.**

- Sec. 8-6-80 Abatement costs; to whom paid.**
- Sec. 8-6-90. Objections to assessment; hearing.**
- Sec. 8-6-100. Collection of costs.**

## **ARTICLE 8-8 ABATEMENT OF NUISANCE**

### **Sec. 8-6-10. City Manager inspection and enforcement.**

(a) It shall be the duty of the City Manager, and such officers as the City Manager may direct from time to time to ascertain and cause nuisances in the City to be abated.

(b) Any person charged or appointed to enforce this Chapter may make such inspections as may be necessary in accordance with the provisions of Article 1-20. **Right of entry for inspection** of this Code, as it may be amended, in order to enforce the provisions of this Chapter and to cause all nuisances to be abated or removed as provided herein.

### **Sec. 8-6-20. Abatement of nuisance.**

Whenever any nuisance shall be found on any premises within the City, the City Manager or his or her designee is authorized, in his, her or its discretion, to cause the same to be abated in such manner as he, she or it may direct.

### **Sec. 8-6-30 Notice of violation.**

(a) Whenever the City Manager or the Manager's designee determines that there is probable cause to believe a violation of any provision of this Chapter has occurred, the manager or designee may, in his or her discretion, issue to the owner or occupant of the subject lot or open area either a summons or complaint or a notice which lists each alleged violation. Such notice, if issued, shall:

- (1) Be in writing;
- (2) Include a statement of the reason for its issuance;
- (3) Provide a date certain by which the violation shall be corrected; and
- (4) Be served upon the owner or occupant; provided that:

(b) If the owner or occupant is unable to be personally served, service of the notice shall be deemed complete when a copy thereof is sent by regular mail to the last known address of the last known owner of the subject lot, property or tract, such address and owner being those which appear on the most recent general property tax assessment for such property levied by the appropriate county. Service thereof shall be deemed complete upon personal delivery or after five (5) days from date of mailing in the event the mailed notice is not returned to sender undelivered.

(c) If the address of a person to be notified herein is unknown or a mailed notice is returned undelivered, said notice may be served by posting the same in a conspicuous

place on the property where the violation exists, in which event service of the notice shall be deemed complete twenty-four hours after posting such notice in a conspicuous place on or about the subject lot or open area, in which event, a record shall be made as to the reason such posting is necessary.

(d) The notice shall comply with each of the requirements set forth in subsection (a) of this section and shall further indicate that:

(1) If the City abates the violation, the costs and expenses incurred by the City as a result of such abatement will be assessed against the owner or occupant with notice of the amount of such assessment being mailed to the owner or occupant upon the completion of such abatement; and

(2) A lien for such costs and expenses as provided in Section 8-6-70, as amended shall attach as provided in Section 8-4-30, **Lien**, BMC, as the same may be amended.

(e) No written notice of violation as provided in this Section 8-6-30 for abatement shall be required prior to a criminal prosecution for violation of this Code or prior to any other remedy provided for in this Code.

**Sec. 8-6-40. Weeds and Grass - Notice to cut weeds and grass.**

In addition to any other abatement, enforcement or other actions provided for in this Chapter, the City Manager or the Manager's designee is authorized to give notice to the owner or occupant of a lot, property, or tract, in accordance with Section 8-6-30, as amended, ordering the cutting of any weeds or grass which are in violation of Sections 8-8-20 and 8-8-30, as amended, to a height of no more than six inches. The notice shall indicate that the owner or occupant has seven days from the date of such notice to bring such lot or open area into compliance with this article.

**Sec. 8-6-50 Trees - Notice to cut or remove trees.**

The City Manager or the Manager's designee is authorized to give notice to the owner or occupant of a lot, property, or tract, in accordance with Section 8-6-30, as amended, ordering the cutting, trimming, and removal of trees which are in violation of Section 8-8-80, as amended. The notice shall indicate that the owner or occupant has ten (10) days from the date of such notice to bring such lot or open area into compliance with Section 8-8-80, as amended. This requirement, however, does not apply to city-installed trees on the city's right-of-way.

**Sec. 8-6-60. - Notice to maintain landscaping.**

The City Manager or the Manager's designee is authorized to give notice to the owner or occupant of a lot, property or tract, in accordance with Section 8-8-30, as amended, ordering that landscaping on the City's right-of-way be maintained in accordance with

Section 8-8-10, as amended. The notice shall indicate that the owner or occupant has seven days from the date of such notice to bring such right-of-way into compliance with this article.

**Sec. 8-6-70. - Failure to abate; abatement by City; costs.**

(a) If the person upon whom such notice to abate is served fails, neglects or refuses to abate the violation of the Code within ten (10) days of service of such notice on lot, property or tract which he or she owns, leases or occupies, as required by this Chapter, the City Manager, without further notice, may cause the necessary work to be performed to bring such lot, property, or tract into compliance with the Brighton Municipal Code. Therefore, reasonable efforts shall be made to notify the owner, lessee or occupant of the costs thereof, plus charges authorized in this Chapter; provided, however, that in no event shall failure of the owner, lessee or occupant to receive notice of the costs and charges void the lien provided for in Section 8-4-30, as amended. The costs of such work, plus additional administrative charges for inspection and other costs in connection therewith shall be billed to the person responsible for said property. These additional charges are as follows:

(1) If the City's actual costs of abatement are one hundred dollars (\$100.00) or less, the actual costs shall be billed with the additional administrative and enforcement costs incurred by the City at a minimum of thirty-five dollars (\$35.00).

(2) If the City's actual costs of abatement are one hundred dollars (\$100.00) or more, the actual costs shall be billed with an additional thirty-five 35% of the actual costs for the administrative and enforcement costs of the City

In the event payment therefor is not made to the City within thirty (30) days after the date of billing, all costs of such work, plus the above listed administrative and enforcement costs for inspection and other costs incurred, plus all applicable filing costs, shall become a lien against the property secured, collected and enforced as provided in Section 8-4-30, **Lien**, Brighton Municipal Code, as the same may be amended.

**Sec. 8-6-80 - Abatement costs; to whom paid.**

The total amount of assessment for the costs of abatement, administrative and enforcement charges, filing costs provided for in Section 8-6-70, as amended, may be paid to the Director of Finance at any time prior to certification of the same by the City to the office of the county treasurer, but thereafter payment shall be made only to the office of the county treasurer of the county in which the property is located.

**Sec. 8-6-90. Objections to assessment; hearing.**

In the event any owner, lessee or occupant desires to object to the assessment made, he or she shall, within thirty (30) days after completion of the work on the subject property, file

a written objection thereto with the City Manager, who shall thereupon designate the next regular meeting of the City Council as the date when such objector may appear before the City Council and have his or her objections heard.

**Section 8-6-100. Collection of costs.**

Upon receipt of the assessment roll, the county treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes and the redemption thereof.

**SECTION 4.** Chapter 8, **Health and Safety** of the Brighton Municipal Code is amended by the adoption of a new Article 8-8. **Vegetation, rubbish and junk control** to read as follows:

**ARTICLE 8-8 VEGETATION, RUBBISH AND JUNK CONTROL**

- Sec. 8-8-10 Duty to provide and maintain landscaping.**
- Sec. 8-8-20 Weeds, unmowed grasses, nuisances prohibited.**
- Sec. 8-8-30 Weeds - Unlawful growth.**
- Sec. 8-8-40 Weeds – Authority of City Manager; regulations**
- Sec. 8-8-50 Weeds – Exceptions.**
- Sec. 8-8-60 Trees - Neglect of trees, shrubs or plants unlawful.**
- Sec. 8-8-70 Trees - Notification of damage or injury.**
- Sec. 8-8-80 Trees - Removal of dead trees or boughs.**
- Sec. 8-8-90 Trees - Rules and regulations established by City Manager.**
- Sec. 8-8100 Tree species prohibited.**
- Sec. 8-8-100 Spacing of trees.**
- Sec. 8-8-120 Refuse and rubbish – nuisance.**
- Sec. 8-8-130 Refuse and rubbish-prohibited.**
- Sec. 8-8-140 Refuse and rubbish - Burning prohibited**

**ARTICLE 8-8 VEGETATION, RUBBISH AND JUNK CONTROL**

**Sec. 8-8-10 Duty to provide and maintain landscaping.**

(a) It shall be the duty of the owner or occupant of a lot, property, tract or open area to maintain, in a healthy condition, all plants, shrubs, turf, and other landscaping, excluding city-installed trees, on the city right-of-way within or adjacent to such lot or open area. If any such landscaping should become diseased, hazardous, or otherwise defective, it shall be the duty of the owner or occupant to remove and replace such landscaping in accordance with applicable city landscaping standards.

(b) The requirements of subsection (a) of this section shall not apply where the City Manager or Manager's designee has notified the owner or occupant in writing that the City has assumed responsibility for maintaining the City's right-of-way.

(c) It shall be the duty of the owner or occupant of a developed lot or developed open area to maintain, in a healthy condition, all plants, shrubs, turf, and other landscaping, excluding city-installed trees, on all such property, front and side yards, adjacent to or visible from any street. In the event that any such landscaping should become diseased, hazardous, deteriorated, desiccated, withered, or otherwise defective, including but not limited to withering or desiccation resulting from the lack of sufficient water, it shall be the duty of the owner or occupant to remove, revive, restore or replace such landscaping in accordance with applicable city landscaping standards.

(d) For the purposes of this section, front yard shall mean the open space on the same site with the building between every point on the front of such building and the front lot line of the site, and extending the full width of the site. Side yard shall mean the open space on the same site with the building between the side of the building and the side lot line and extending from the front yard to the rear yard.

**Sec. 8-8-20 Weeds, un-mowed grasses, nuisances prohibited.**

(a) **Noxious Weeds.** Any weeds, such as ragweed, thistle, knapweed, bindweed, or any Type A, B or C list noxious weeds, as designated by the Colorado Department of Agriculture pursuant to the Noxious Weed Act (C.R.S. § 35-5.5-101 et seq.), found growing in any lot, property or tract of land in the City, are a public nuisance and shall be removed. Notwithstanding any other provisions in this section, it is unlawful for any property owner or lessee to fail to comply with state statutory and regulatory requirements regarding noxious weeds.

(b) **Weeds and Un-mowed grasses.** All weeds or un-mowed grasses required to be mowed under Section 8-8-30, as amended, on a lot, property or tract within the City are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the City.

**Sec. 8-8-30 Weeds - Unlawful growth.**

(a) It shall be the duty of every owner or occupant of any developed lot, property or tract to keep the weeds on such developed and utilized lot, property, or tract cut to a height of not more than six (6) inches, except as otherwise excepted herein.

(b) It shall be the duty of every owner or occupant or the agent or representative thereof having control of any lot, property or tract which is one (1) acre or larger to cut, trim, remove or maintain any weeds and/or grass to a height of six (6) inches or less on that portion of such lot, property or tract located within twenty (20) feet of any adjacent developed residential, commercial or industrial property; or dedicated street, or public right-of-way.

(c) It shall be the duty of every owner or occupant of any lot, property or tract to keep the weeds, grasses and vegetation of any kind or nature on any portion of the right-of-way located between the property line of such lot, property or parcel and the curb face,

flow line, edge of the pavement, or to the center of any alley of any public street to a height of not more than six (6) inches.

(d) It shall be unlawful for the owner of any open area, ditch, ditch right of way or railroad right of way to allow weeds or grasses other than those grown for agricultural purposes upon such open area, ditch or right of way to grow to a height of more than twelve (12) inches.

**Sec. 8-8-40 Weeds – Authority of City Manager; regulations**

(a) The City Manager shall have the authority to promulgate, amend and adopt such rules, regulations and specifications for the mowing, trimming, removal or control of any weeds or grasses in the City, located upon any lot, property or tract of land in the City; provided, however, that any such rules, regulations and specifications must be for the protection of the general health, safety and welfare of the citizens of the City.

(b) The requirements of Section 8-8-30, as amended, shall not apply where the City Manager or the Manager's designee has notified the owner or occupant in writing that the City has assumed responsibility for maintaining the City's right-of-way.

**Sec. 8-8-50 Weeds - Exceptions**

(a) The provisions of this Article 8-8. **Vegetation, BMC**, as the same may be amended shall not apply to:

1. Flower gardens, vegetable gardens, cultivated or tended shrubbery, and ornamental or native grasses not used as a turf grass (Any ornamental grass or native grasses are exceptions so long as it is used solely or in combination with any other ornamental grass or grasses, as a supplement to the property's overall landscaped area and does not constitute in square footage more than twenty (20%) percent of the property's overall landscaped area);
2. A Compost area.
3. City-owned and designated open lands and spaces and including city-owned open lands as approved on a final plat or site development plan, or as acquired or leased by the City for open land;
4. Any property subject to a recorded conservation easement or officially designated as an environmentally sensitive area or wetlands;
5. Property capable of use for the grazing of livestock, if such property is completely enclosed by a fence;
6. Property used or managed for the growing of crops for commercial purposes or for consumption; or
7. Grass, trees, shrubs and vegetation intended to enhance the natural settings on city parks and open spaces, primary greenways, trails,

**Sec. 8-8-60. Trees - Neglect of trees, shrubs or plants unlawful.**

(a) It is unlawful for any person who is an owner, lessee or occupant of any lot, property or tract of land in the City adjacent to or abutting any sidewalk, street, public place or right-of-way in the City to fail to trim, spray, remove or otherwise care for any trees, shrubs or plants located on such lot, property or tract of land in the City, or located upon any public right-of-way abutting such lot, property or parcel of land in the City at the expiration of a reasonable time as determined by the City Manager after having been given written notice as provided in Section 8-6-30, as amended, trim, spray, remove or otherwise care for such trees, shrubs or other plants.

**Sec. 8-8-70. Trees - Notification of damage or injury.**

Any person who injures, damages or destroys any tree, shrub or other plant situated in any street, alley, sidewalk or other public place or right-of-way in the City shall promptly notify the City Manager of such fact and shall, within such reasonable time as specified by the City Manager, repair or replace the same to the satisfaction of the City Manager to a condition equal to that which existed at such location prior to the injury, damage or destruction. Should the person fail to notify the City Manager of the injury, damage or destruction of the same or refuse to repair or replace the damaged or destroyed tree, shrub or other plant, as the case may be, within a reasonable time as determined by the City Manager, the City Manager shall do, or cause to be done, the necessary repair or replacement, and the cost thereof shall be recovered by the City as provided in Section 8-6-70, as amended.

**Sec. 8-8-80. Trees - Removal of dead trees or boughs.**

It is unlawful for any owner, lessee or occupant of any lot, property or tract of land in the City or any agent, servant, representative or employee of such owner, lessee or occupant having control of any lot, property or tract of land in the City to permit any dead trees, hazardous or unsafe tree, or dead overhanging boughs dangerous to life, limb or property to be located on such lot, property or parcel of land after a reasonable period of time as determined by the City Manager and after written notice of such violation is given as provided in Section 8-6-30, as amended, to remove any such dead or hazardous unsafe trees or dead overhanging boughs as the case may be.

**Sec. 8-8-90. Trees - Rules and regulations established by City Manager.**

The City Manager shall have the authority to promulgate, amend and adopt such rules, regulations and specifications for the trimming, spraying, removal, planting, pruning and protection of trees, shrubs and other plants within the limits of any street, sidewalk, public place or right-of-way in the City, and of such trees, shrubs and other plants located upon any lot, property or parcel of land abutting such street, sidewalk, public place or right-of-way in the City; provided, however, that any such rules, regulations and specifications must be for the protection of the general health, safety and welfare of the citizens of the City.

**Sec. 8-8-100. - Tree species prohibited.**

(a) It is unlawful to plant in the City any Populus species tree that bears a cotton-like substance, except aspens.

(b) It is unlawful to plant in any public right-of-way in the City any poplar (Populus), willow (Salix), box-elder (Acer negundo), Siberian elm (Ulmus pumila) and weeping or pendulous tree, or any plant with bushy growth that obstructs, restricts or conflicts with necessary and safe use of the public right-of-way. Furthermore, no upright evergreen shall be planted on any public right-of-way in the City without first obtaining permission from the City Manager.

**Sec. 8-8-110. - Spacing of trees.**

It is unlawful to space trees in any street, public place or public right-of-way other than as prescribed in the specifications promulgated and adopted by the City Manager, or the City Manager's designee.

**Sec. 8-8-120. Refuse and Rubbish**

**(1) Refuse and Rubbish – nuisance**

(a) The owner or occupant of any premises within the City, whether business, commercial, industrial or residential premises, shall maintain the property in a neat, tidy, methodical, systematic, clean and orderly condition, permitting no deposit or accumulation of materials other than those ordinarily attendant upon the use for which the premises are legally intended. If a property is used for a purpose (including, without limitation, a junkyard) which, by its fundamental nature, cannot be maintained as required above, then, in lieu thereof, such property, or any affected portion thereof, shall be completely screened from public view and from the view of any abutting property that is used for residential purposes.

(b) All refuse, rubbish and junk on a property within the City are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the City.

**Sec. 8-8-130 Refuse and rubbish-prohibited**

(a) It shall be unlawful for the owner or occupant of any property to permit refuse, rubbish or junk to accumulate on any part of the property. All refuse shall be stored for prompt disposal on the premises in refuse containers, and the storage area shall be kept free of loose refuse. Any refuse, rubbish or junk which by its nature is incapable of being stored in refuse containers shall be neatly stacked or stored for prompt disposal. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are screened from view and are not susceptible to being spilled by animals or wind or other elements.

Containers may be placed outside the screened area to facilitate scheduled trash service pickup provided that such placement may not occur more than twenty-four (24) hours before the scheduled pickup and the containers shall be returned to the area screened from view from the street within 24 hours after the pickup.

(b) It shall be unlawful for the owner or occupant of any property to permit the accumulation of refuse, rubbish, brush pile or junk which constitutes or may create a fire, health or safety hazard or a harborage for rodents, insects or other vermin in such numbers as may be harmful to the health or safety of occupants or passersby.

(c) No person shall, for a period longer than twenty-four (24) hours at any one (1) time, store or permit to remain on any business, commercial or industrial premises owned or occupied by such person, any manure, refuse, animal or vegetable matter or any foul or noxious liquid waste which is likely to become putrid, offensive or injurious to the public health, safety or welfare.

(d) No owner or occupant of any premises which are adjacent to any portion of any open area, vacant lot, ditch, detention pond, storm drain, watercourse or public right-of-way or other public property, nor any other person, shall cause the deposit or accumulation of refuse, rubbish or junk or the deposit, accumulation or storage of materials, chattels or fixtures other than those ordinarily attendant upon the use for which the premises are legally intended, within or upon such adjacent areas.

(e) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

(f) This Chapter shall not apply to the following:

(1) To the outdoor storage or placement of inoperable vehicles as defined in Section 10-8-60, BMC, as amended which are specifically permitted under the zoning ordinances of the City, including variances or permits obtained through the process provided for in the zoning ordinances of the City; or

(2) To motor vehicles collector's items, as defined and regulated by state statutes.

#### **8-8-140 Refuse and Rubbish - Burning prohibited**

(a) It is unlawful for any person to burn or set fire to any rubbish, trash, debris, litter, junk, weeds, brush, brush pile, grass or other flammable material within the City or within forty (40) feet of the City limits, except if such fire is within a stove or other appliance, fixture or equipment suited or intended for such purpose and further subject to the provisions of subsection (b) of this Section relating to burning within the City parks.

(b) It is unlawful for any person to burn or set fire to any flammable material within the city parks or open space unless such fire is within a pit or facilities specifically constructed for such fires.

- (1) Such burning within the City parks shall be permitted only between the hours of 5:00 a.m. and 10:00 p.m.;
- (2) No fire in the City parks shall be unattended at any time.
- (3) All fire and hot ashes shall be extinguished prior to leaving the area.

(c) This Section shall not apply to any fire authorized by the Fire Chief upon finding by the Fire Chief that such fire would not be detrimental or injurious to the public health, safety or welfare.

**SECTION 5. Purpose.** The purpose of this Ordinance is to provide for the health, safety and welfare of the people.

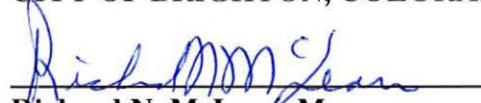
**SECTION 6. Repeal.** Existing or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance

**SECTION 7. Validity.** If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.


**SECTION 8. Interpretation.** This Ordinance shall be so interpreted and construed as to effectuate its general purpose.

**INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED THIS 21<sup>st</sup> DAY OF July, 2015.**

**CITY OF BRIGHTON, COLORADO**

  
Richard N. McLean, Mayor

ATTEST:

  
Natalie Hoel, City Clerk

APPROVED AS TO FORM:

  
Margaret R. Brubaker, City Attorney

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PASSED ON SECOND AND FINAL READING AND ORDERED PUBLISHED BY  
TITLE ONLY THIS 4<sup>th</sup> DAY OF August, 2015.

CITY OF BRIGHTON, COLORADO

  
Richard N. McLean, Mayor

ATTEST:

  
Natalie Hoel, City Clerk

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