

ORDINANCE 26-010

AN ORDINANCE TO CHANGE THE PARKS, RECREATION, VEGETATION AND FORESTRY WITHIN THE CITY OF BROOKINGS

BE IT ORDAINED by the governing body of the City of Brookings, South Dakota:

DIVISION 3. – DEAD, DYING, DISEASED OR INFESTED TREES

Sec. 62-161. - Declaration of policy.

The city council has determined that the health of the urban forest within the city is increasingly threatened by a variety of pests, pathogens, and environmental stressors. The loss of trees growing upon public and private property would significantly depreciate property values and impair the general welfare of the public. It is the policy of the city to control and prevent the spread of harmful tree diseases, infestations, and other conditions that contribute to declining tree health. This division is adopted for that purpose.

Sec. 62-162. - Public nuisances declared.

The city council declares the following to be public nuisances:

- A. Any living or standing tree, or part thereof, which is dead, dying, diseased, or infested in a manner that poses a threat to public safety or may contribute to the spread of pests or disease.
- B. Any dead tree or part thereof, including logs, branches, stumps, firewood, or other woody material from which bark has not been removed and properly disposed of or treated to mitigate pest or disease risk.

Sec. 62-163. - Nuisances not permitted to remain.

No person may permit any public nuisance as defined in this division to remain on the premises owned or controlled by them within the city.

(Code 1996, § 26-62)

Sec. 62-164. - Inspection.

The director of parks, recreation and forestry or designee is authorized to inspect all premises within the city to determine whether any tree constitutes a public nuisance as defined in this division. Trees may be subject to inspection if reported or suspected to be dead, dying, diseased, or infested, regardless of species.

(Code 1996, § 26-63)

Sec. 62-165. - Abatement of nuisances upon public property.

If the director or designee determines with reasonable certainty that a public nuisance exists within the city upon any public street, alley, park or other public place, including the strip of property between the curb and lot line, the director or designee shall cause it to be removed and burned or shall otherwise abate the nuisance.

(Code 1996, § 26-64)

Sec. 62-166. - Abatement of nuisances on private property.

If the director or designee determines with reasonable certainty that a public nuisance exists on private property, the director or designee shall provide notice to the property owner or occupant to abate such nuisance within a reasonable timeframe.

Sec. 62-167. - Determination of disease.

If the director is unable to determine with certainty whether a tree is dead, diseased, or infested, they may collect and submit specimens for professional evaluation. Actions may proceed upon confirmation of a hazardous condition.

Sec. 62-168. - Abatement by the city.

If the owner, agent, or occupant of the property upon which any tree-related nuisance exists—including but not limited to those involving dead, diseased, or infested trees—fails to abate such nuisance within the time specified in the notice to abate, the director of parks, recreation and forestry shall cause the nuisance to be removed or otherwise abated.

Sec. 62-169. - Effect of abatement.

Any abatement made under the provisions of this division shall be conducted in a manner that prevents or limits the spread of tree pests, diseases, or infestations, including known and emerging threats. The goal of such abatement shall be to preserve the overall health of the urban forest and safeguard public and environmental well-being.

Sec. 62-170. - Assessment of cost of abatement.

The cost of abating any public nuisance shall be borne as follows:

- A. The entire cost of any abatement of a public nuisance consisting of diseased trees or any part thereof on any public street, alley, park or other public place, including the strip of property between curb and lot line, shall be borne by the city. If a tree is located on the property line between the public property and private property, the entire cost of abatement shall be borne by the city.
- B. The cost of any abatement of a public nuisance on any private property shall be borne by the owner of the property and shall be collected or assessed against such property as provided in this division or in accordance with other assessment procedures in this Code for collection of costs of the abatement of a public nuisance. If any part of a tree constituting a nuisance under this division is located on a property line between two private owners, the owners of the property on either side of such line shall share equally in the cost of abatement.

Sec. 62-171. - Reporting of costs.

The director of parks, recreation and forestry shall keep accurate records of the cost of work performed under this division for which assessments are to be made, stating the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The director of parks, recreation and forestry shall include in a report to the city manager the aggregate amount chargeable to each lot or parcel, and such amount shall be collected from the property owner or occupant, or levied and assessed against such parcels or lots. In lieu of spreading the cost of the abatement of the nuisance against such

property, such amount may also be recovered by a civil action against the owner or occupant of such property.

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CITY OF BROOKINGS, SD

Oepke G. Niemeyer, Mayor

ATTEST:

Bonnie Foster, City Clerk