

TITLE VII

**HEALTH
AND
SAFETY**

HEALTH AND SAFETY

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- 7.02 Garbage
- 7.04 Weeds
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CHAPTER 7.02

GARBAGE

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7.02.10 Definitions The following definitions shall apply unless the context clearly indicates another meaning or unless elsewhere expressly stated for specific application:

A. “Compost” means the product resulting from the decomposition of leaves, straw, grasses and other vegetable matter mixed or unmixed with well-rooted manure, and mixed or unmixed with inorganic materials ordinarily forming a part of the soil, such as sand or lime, loam and used and usable or intended to be used as fertilizer and soil conditioner.

B. “Contract collection” means engagement by the Town of a private company or companies under formal agreement and definite specifications to collect and haul

municipal refuse for which the contractors are paid from the general public revenues or service fees collected by the Town.

C. "Disposal area" means any site, location, tract of land, area, building, structure or premises used or intended to be used for refuse disposal.

D. "Garbage" means every accumulation of animal, vegetable, or other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruit or vegetables including the cans, containers or wrappers wasted along with such materials.

E. "Manure" means the accumulation of animal or fowl droppings with or without added decomposable materials such as straw, grasses or leaves and exclusive of human excrement.

F. "Municipal collection" means performance of collection operations under direction of a regular municipal department or official.

G. "Owner/occupant" means the person occupying a dwelling or unit or the person owning, operating, managing or keeping any hotel, apartment house, rental unit, mobile home, boardinghouse, trailer camp, auto court, food establishment, industrial establishment, commercial establishment, business establishment, school, church or institution or premises wherein or whereon refuse accumulates or is likely to accumulate.

H. "Rack" means any type of support which will hold refuse containers upright and protect the contents from being scattered by animals or the wind.

J. "Refuse" means any waste products sold or having the character of solids rather than liquid in that it will not flow readily without additional liquid and which is composed wholly or partly of such materials as garbage cleanings, trash, rubbish, litter, industrial solid wastes or domestic solid wastes; organic wastes or residue of animals sold as meat, fruit or other vegetables or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables, offal, animal excreta or the carcasses of animals, brick, plaster or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, junk or other such substances which may become a nuisance.

K. "Refuse collector" means the person, firm, agency or public body, or employee or agent thereof who is or intends to be engaged in the collection and/or transportation of refuse in any part of the Town.

L. "Refuse disposal" means the complete process required for the disposal of any refuse and includes all tools, equipment, treatment spaces, buildings, structures, appurtenances and materials required to take refuse from a refuse collector and bury, incinerate, destroy or otherwise dispose of such refuse.

M. "Rubbish" means wood, leaves, trimmings from shrubs, dead trees or branches, shavings, sawdust, excelsior, woodenware, dodgers, printed matter, paper, paperboard, pasteboard, packing crates and pasteboard boxes, grass, roots, straw, wearing apparel, soil, earth, sand, clay, gravel, loam, stone, brick, plaster, crockery, glass, glassware, ashes, cinders, shell, metals and all other materials not included under the term "garbage".

N. "Salvage operation" means any operation carried on by a person, firm or corporation for the express purpose of reclaiming for value a portion of a substance,

material or goods prior to or as a part of the refuse disposal process by sorting, segregation, or other manual or mechanical means.

O. "Transportation of refuse" means the hauling in bulk or in refuse containers to the designated disposal area or transfer station.

P. "Commercial collection" means collection from businesses and multifamily units containing two or more separate dwellings.

Q. "Residential collection" means collection from all single family dwellings.

R. "Yard waste" means grass clippings, leaves, trimmings from shrubs and trees and vegetable and flower garden plants.

7.02.20 Town limits-required. It is declared that it is in the interest of good health and sanitation that all premises in the Town limits must receive sanitation service from the Town of Browning solid waste division only. Should the town council, who is the only authorized government body that may make the exemption, make an exception and allow a private solid waste company to provide this service the owner/occupant is still required to pay the monthly fee for solid waste pickup from the town for garbage service. Charges for refuse disposal shall be made against all lots wherein or whereon refuse accumulates or is likely to accumulate.

7.02.30 Outside town limits-Council discretion. This chapter expressly authorizes the removal of garbage without or beyond the city limits. The removal and/or collection of garbage without or beyond the city limits shall be done at the discretion of the city council. Should the city council authorize the removal and/or collection of garbage without or beyond the city limits, the service will be billed to the recipient thereof in the same manner as billing for residential and commercial collection as described in Section 7.02.200 of this chapter to an additional \$.50 per month.

7.02.40 Containers-Accumulation of refuse-Standards generally. The standards and requirements set out in Sections 7.02.50 through 7.02.100 are established as a minimum for the accumulation and storage of refuse pending collection.

7.02.50 Containers-Refuse-Placement for collection. Residential refuse and garbage generators equipped with rollout type containers on the scheduled collection days at the curb line in front of their residences. Containers shall not be placed for collection before nine p.m. on the day preceding the day of collection, and after the containers are emptied they shall be removed from the curb line on the day of collection. It shall be the duty of the owner/occupant to provide and maintain accessibility to any and all containers.

7.02.60 Containers-Refuse-Garbage wrapping requirements. All garbage placed in residential refuse containers shall be wrapped with paper or plastic. It is prohibited to place the following materials in containers:

- A. Large limbs or trimmings that do not allow the container lid to close;
- B. Liquids;
- C. Large construction, demolition or remodeling debris;

- D. Concrete, dirt or plaster;
- E. Appliances or other furniture that will not allow the lid to close;
- F. Hot ashes;
- G. Dead animals or parts thereof;
- H. Yard waste including grass clippings.

7.02.70 Combustible rubbish storage. Whenever combustible rubbish is held and stored within any industrial, commercial or business structure it must be stored in a manner acceptable to the Fire Marshall.

7.02.73 Container – Size. The owner/occupant of all properties where garbage is placed out of doors preparation to collection shall provide metal or plastic containers for the garbage that has a tight fitting cover and shall be rodent proof that shall not exceed 40 gallons with the exception of the containers that are sold by the town which are 96 gallon roll out style and shall provide a rack for the containers to be placed that will prevent the containers from being upset by the wind or animals. Under no circumstances will recycled metal barrel drums or metal/plastic cans that have lead filled bottoms or any object that is used as a weight to prevent the spillage of waste from the can be allowed as garbage receptacles.

7.02.76 Containers-Rack. The owner/occupant shall place all containers with the exception of the 96-gallon containers sold by the town within a rack that shall consist of a platform with walls constructed in a manner so that the containers cannot be tipped over. The rack must be raised not less than one (1) foot or more than two (2) feet above the surrounding level ground.

7.02.80 Containers-Rubbish accumulation. Ordinary accumulations of rubbish between collections may be placed at the designated collection place in any container that meets the specifications herein and shape easily lifted, secured against the wind and handled without spillage by the collector or else removed to the dump by the occupant or owner of the premises. Extraordinary accumulations of rubbish shall be placed for collection in appropriate containers. Tree trimmings may be placed for collection outside of a container provided such trimmings are secured in bundles of convenient size and weight and do not exceed three feet in length and three inches in diameter. Grass clippings shall be placed in substantial containers or contractor heavy weight plastic bags that can be collected without spillage. Wetted down ashes shall be placed only in easily lifted containers with metal containers with covers not to exceed five gallons. Other waste material shall be in sturdy, well built containers which will not break, fall apart, rip or tear while being handled by the collector or shall be secured in neat bundles easily handled by the collector and shall not exceed three feet in length.

7.02.90 Bulk handling-Refuse storage. Bulk handling or storage of refuse of any character shall be subject to review by the Town and the owner or occupant of any industrial, commercial or business establishment shall make such provisions as required for the sanitary and safe storage and collection of such refuse as may be produces in bulk.

7.02.100 Containers-Bulk-Multifamily dwelling. For multifamily dwellings containing 2 or more separate dwelling units bulk storage bins will be allowed as long as they meet the standards set forth herein concerning security of containers.

7.02.110 Private persons transporting. Private persons who transport any refuse or yard waste shall take action to prevent any spillage by securing all loads with tarps or other means. Should any spillage accidentally occur the transporter will immediately clean the area.

7.02.120 Premises maintenance-Violation. It shall be the duty of every owner/occupant to maintain the premises, equipment, containers and disposal areas owned or used in compliance with all the requirements of this chapter and all of the applicable provisions of this Code and violations is a public nuisance.

7.02.130 Alley maintenance. All persons owning, occupying or being in control of property fronting on any alley of the town shall keep the portion of the alley between the centerline thereof and the property line of such property and fronting such property free from garbage, rubbish, weeds or any other combustible material.

7.02.140 Premises-Container placement-Parks and public areas. Containers shall be placed by the owner/occupant in a place or manner approved by the Solid waste department head, field supervisor or the town manager. The Solid waste department may also place containers in parks, recreation areas, and places of public assembly, and along public right-of-way as maybe required or desirable.

7.02.150 Premises-Collection-Authorized. Every tenant, lessee, occupant, keeper or owner of the places or occupancies referred to in this chapter shall be responsible for the regular collection of garbage from the places of occupancy by the Town solid waste department. No person shall permit the removal of any refuse on properties within the incorporated limits of Browning, Montana except in by the Town.

7.02.160 Burning. The burning of refuse is prohibited.

7.02.170 Construction-waste removal regulations. Each person, building contractor, construction contractor, or subcontractor engaged in the construction or repair or demolition of any building or structure or part thereof shall take measures to prevent waste matter or rubbish from accumulating on any street, alley, gutter, park, sidewalk curbing, curb space, any public right-of-way or any privately owned premises. Any refuse waste matter or rubbish shall be cleaned up and removed from a work site and disposed of in a sanitary manner.

7.02.180 Salvaging prohibited-Exception with authorization. No person may pick over, sort, segregate any refuse deposited in an authorized disposal area, refuse container or refuse pile except as authorized by the Town of Browning manager.

7.02.190 Manure accumulations. All manure resulting from keeping of any animal, fowl, livestock or game in the Town limits shall be accumulated in sanitary fly proof containers and collected and disposed of in an approved fashion as specified herein for waste disposal.

7.02.195 Damage or disturbing. It is unlawful for any person other than the owner or authorized collector to interfere with or disturb any garbage receptacle or any garbage after it has been put in a garbage receptacle nor shall any unauthorized person molest, hinder, delay or in any manner interfere with any garbage collector in the discharge of his/her duty.

7.02.200 Billing charges. A. The Town may make monthly billing for the costs of sanitation service. The cost of sanitation services including collection, refuse reduction or shredding, land fill fees and disposal of garbage from the streets, alleys, private premises of the Town and any other premises that is serviced by the Town of Browning solid waste removal division shall be charged to the owner of the property from which such garbage is removed.

7.02.210 Assessing delinquent charges. The Town may include sanitation charges as part of the annual resolution assessing delinquent accounts. The resolution shall provide property owners name; property owners mailing address; legal description; and parcel number of the property in question.

7.02.220 Sanitation rates resolution. A. The Town of Browning Council shall following a public hearing, adopt a resolution establishing sanitation rates as they determine necessary to defray the cost of sanitation services for the fiscal year.

B. It shall be the duty of the Town treasurer before the passage of the resolution fixing the sanitation rates to publish in the official paper of Browning, Montana a notice of public hearing on the rate resolution. The notice shall include the time and place the resolution will come up for hearing.

7.02.230 Special Service rate. A special services rate will be established each year to recover the costs of handling garbage outside of containers. These costs are to be billed monthly to each owner/occupant on the basis of additional time spent at the pickup site, equipment used and labor or the town council may set a flat fee for said service. When inadequate containers are used as daily waste receptacles that allow an overflow of refuse from the containers or intrusion from animals or other species that creates loose refuse to spill out of said containers and requires the solid waste technicians or other town personnel to clean up the area surrounding or a round the receptacle the owner/occupant will be billed a flat fee to be established by the town council.

7.02.240 Contractual or private collection – License required. A. No person shall engage in the business of collection and removing refuse from any business establishment or private dwelling in the Town.

B. No owner/occupant or private individual not in the business of collection and removing refuse shall cause the same to be removed from a business establishment or private dwelling in the Town limits except by the Town.

7.02.250 Holiday waste. Due to the large amount of refuse and garbage during the Christmas holiday period the added amount will not increase the amount of the individual or commercial charge for the added garbage and refuse.

Christmas trees will be picked up under the supervision of the solid waste personnel. The individuals will determine if the trees are to be pickup or not.

Residential Rates: In and Out of Town									
No. of Receptacles									
# of P/U	2	3	4	5	6	7	8	9	10
1	\$8.68	\$9.93	\$11.18	\$12.43	\$13.68	\$14.93	\$16.18	\$17.43	\$18.68
2	\$17.36	\$19.86	\$22.36	\$24.86	\$27.36	\$29.86	\$32.36	\$34.86	\$37.36
3	\$26.04	\$29.79	\$33.54	\$37.29	\$41.04	\$44.79	\$48.54	\$52.29	\$56.04
4	\$34.72	\$39.72	\$44.72	\$49.72	\$54.72	\$59.72	\$64.72	\$69.72	\$74.72
5	\$43.40	\$49.65	\$55.90	\$62.15	\$68.40	\$74.65	\$80.90	\$87.15	\$93.40

Commercial Rates										
No. of Receptacles										
# of P/U	1	2	3	4	5	6	7	8	9	10
1	\$19.88	\$20.88	\$21.88	\$22.88	\$23.88	\$24.88	\$25.88	\$26.88	\$27.88	\$28.88
2	\$39.76	\$41.76	\$43.76	\$45.76	\$47.76	\$49.76	\$51.76	\$53.76	\$55.76	\$57.76
3	\$59.64	\$62.64	\$65.64	\$68.64	\$71.64	\$74.64	\$77.64	\$80.64	\$83.64	\$86.64
4	\$79.52	\$83.52	\$87.52	\$91.52	\$95.52	\$99.52	\$103.52	\$107.52	\$111.52	\$115.52
5	\$99.40	\$104.40	\$109.40	\$114.40	\$119.40	\$124.40	\$129.40	\$134.40	\$139.40	\$144.40

Land Fill Fees	
Residential	\$2.75
Residential: Out of Town	\$3.25
Glacier Homes	\$4.05
Commercials	\$3.75

All bins sold by the Town are classified as 1 receptacle.

CHAPTER 7.04

WEEDS

Sections:

7.04.10	Nuisance weeds – Defined
7.04.20	Nuisance weeds – Deemed a nuisance
7.04.30	Violation – Notice served
7.04.40	Violation – Notice procedure
7.04.50	Assessing delinquent charges
7.04.60	Notice
7.04.70	Assessing Delinquent charges

7.04.10 Nuisance weeds – Defined “Nuisance weeds” are all weeds, grass and uncared for vegetation growing to a height in excess of eight inches (8”) on premises located within the Town.

7.04.20 Nuisance weeds – Deemed a nuisance. It is a public offense punishable under the general penalty provided in Chapter 1.16, and it is a nuisance, for any person, firm or corporation to maintain, cause, permit or suffer any growth of nuisance weeds as defined in Section 7.04.10 to exist upon, in or upon any premises in the Town owned by such person, firm or corporation, or upon the boulevards or the one-half of any public roads, streets or alleys adjacent thereto.

7.04.30 Violation – Notice served. A. It shall be the duty of any authorized representative of the Town to enforce the provisions of this chapter and upon a determination that a violation of this chapter exists, shall ascertain the name and mailing address of the owner of the premises and the description of the premises where the violation exists. Written notice of violation shall be served upon the owner directing that the nuisance shall be cut and removed from the premises within seven days or the following action will be taken: The Town will cause the nuisance to be cut and removed with the cost thereof to be charged against the owner.

B. Payment shall be made at the Town of Browning City Hall within fifteen days after the billing date. If the payment is not made such costs can be assessed against the property or the owner shall be taken to court to pay the assessed costs.

7.04.40 Violation – Notice procedure. Notice of violation shall be made by either:

A. Posting a copy of the notice on the premises; or

B. Mailing a copy of the notice to the owner by first-class United States mail.

The notice shall be deemed complete on the day the notice is posted or mailed.

7.04.50 Assessing delinquent charges. The Town may include weed removal as part of the annual resolution assessing delinquent accounts. The resolution shall provide the property owners name; property owners mailing address; street address; legal description; and parcel number of the property in question.

7.04.60 Notice.

THE TOWN OF BROWNING
PO Box 469
Browning, Montana 59417
Phone: 406-338-2344 Fax: 406-338-2605

NOTICE

Date: _____

To: _____

Address:

This is the official notification that your property has been identified as a public nuisance as defined in chapter 7.04.10 and that the nuisance shall be cut and removed within seven (7) days from the date of this notice or the following actions will be taken against you and/or property:

- A. The Town will cut and remove the weeds with the cost thereof to be charged against you the property owner; or
- B. The Town will issue a contract for the removal of said nuisance and the cost thereof charged against you the property owner; or

Payment shall be made as specified in chapter 7.04.30 (B).

7.04.70 Assessing Delinquent charges. The Town may include weed removal as part of the annual resolution assessing delinquent accounts. The resolution shall provide the property owners mane; property owners mailing address; street address; legal description; and parcel number of the property in question.

CHAPTER 7.06

NUISANCES

Sections:

7.06.10	Nuisance defined
7.06.20	Summary abatement – Lien procedure
7.06.30	Lien procedure for abatement of nuisance
7.06.40	Notice of hearing before Town Council
7.06.50	Hearing by Town Council-Finding of Nuisance
7.06.60	Abatement
7.06.70	Hearing by Town Council – Statement of expense
7.06.80	Recordation of certificate – When nuisance is abated
7.06.90	Violation – Penalty

7.06.10 Nuisance defined. Anything which is injurious to health or is indecent or offensive to the senses or is an obstruction to the free use of another's property so as to interfere with the comfortable enjoyment of life or property of another; or including but not limited to placement and/or maintenance of any motor vehicle, motorcycle, trailer, camp trailer or mobile home on any property in the Town in violation of any regulation or other ordinance; or all any residential structure (including all appurtenant structures) to remain vacant for more than one year where its condition constitutes a hazard or its appearance is a blight to the community or where the property is maintained so as to obstruct the free passage or use, in the customary manner of any navigable creek, stream canal, or any public park square, street, or highway is defined to be a nuisance.

7.06.20 Summary abatement – Lien procedure. The Town council declares that it is in the public interest to establish a summary abatement procedure utilizing a lien process to abate any nuisance as defined in Section 7.06.10. The expense of abatement of nuisance shall be a lien against the property on which it is maintained and a personal obligation shall exist as against the property owner.

7.06.30 Lien procedure for abatement of nuisance. A. The Chief of Police, Fire Chief, Public Works Director or other authorized Town personnel, shall examine or cause to be examined whether any property or thing has been maintained so as to constitute private premises at any reasonable time to perform an inspection or if such consent cannot be obtained, resort to other legal process inclusive of a search warrant.

B. If Town personnel find that a nuisance does exist, they shall obtain a preliminary title report on the real property where the nuisance exists, which shall identify all owners of record lessees of record holders or mortgages, deed of trust or other liens and encumbrances of record. They shall serve upon each such person by personal service or by certified mail, postage prepaid, return receipt requested, a written notice stating the nature of the nuisance and requiring the owner to commence either the

required repairs, demolition, removal or other appropriate action within ten days and to complete such work within thirty days from the date of notice. Such notice shall also contain the office, address, phone number of Town personnel empowered to review the subject matter and the days and hours the same may be contacted. The notice shall be sent to each such person at his/her address as it appears on the last equalized assessment roll of the County or as known to Town personnel. If no address of any such person so appears then a copy of the notice shall be mailed and addressed to such person at the address of the real property where the nuisance is found to exist.

1. The service by certified mail shall be effective on the date of mailing. Town personnel shall cause at least one copy of the notice to be posted conspicuously on the building, structure, or on the real property of thing alleged to be a nuisance.

2. Proof of service notice shall be certified to at the time of service by written declaration executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card, returned acknowledgement of receipt by certified mail, shall be affixed with a copy of the notice and order retained by the Town personnel.

7.06.40 Notice of hearing before the Town Council. If the property owner does not comply with the notice prescribed by Section 7.06.30 by commencing the required work within the time allowed or makes such other arrangement as may be satisfactory, Town personnel shall thereupon send a notice by certified mail, postage prepaid, return receipt requested, to the owner, mortgage holder, deed of trust holder, or holder of any other lien, encumbrance, estate or legal interest of record as disclosed by the preliminary title report obtained pursuant to Section 7.06.30. The cost of said title report shall be charged to the owner.

7.06.50 Hearing by Town Council – Finding of nuisance. A. At the time fixed on the notice the Town council shall proceed to hear testimony of the Town personnel and the testimony of any other interested party who may be present and desire to testify respecting the condition of the property or thing the estimated cost of repair, demolition, removal or other appropriate action.

B. Upon the conclusion of the hearing the Town council will by resolution declare its findings and in the event it so concludes it may declare the property to be a nuisance and direct the owner to obtain the proper permits and physically commence abatement of the nuisance demolished, removed or other appropriate act necessary to cure the nuisance.

C. Such resolution shall further notify the owner of the property that if the nuisance is not abated the property will be the subject of repair, demolition, removal or other appropriate act as the case may be by the Town and the expenses thereof shall remain a lien on the property.

D. The Town personnel shall send copies of the resolution to the person owning the property or thing as such person's name and address appear on the last equalized assessment roll or as known to the Town personnel and to each lessee, mortgage holder, deed of trust holder of any other lien, encumbrance, estate or legal interest of record as shown on the preliminary title report obtained pursuant to this section at the last known address of each such person.

E. The Town clerk shall file a certified copy of any resolution declaring real property a nuisance with the Glacier County Clerk and Recorder and the Bureau of Indian Affairs Realty Division.

F. The Town council will consider and extension of the time limits set by resolution if the owner posts a cash deposit in an amount fixed by the City council within three (3) days from the date of the extension request.

7.06.60 Abatement. A. In the event the owner does not commence the abatement of the nuisance located on the real property within ten days prescribed Town personnel are authorized to undertake the appropriate action such as demolition, repair or removal necessary to cure the nuisance in accordance with the resolution of the Town council or have the work done pursuant to purchase order or contract.

7.06.70 Hearing by Town council – Statement of expense. A. At the time fixed for the hearing of the statement of expense the Town council shall consider the statement together with any objection or protest which may be raised by any of the property owners liable to be assessed for the work and any other interested person and the same shall be confirmed as stated, revised, corrected or mortgaged by the Town council.

B. Payment of expense. If said statement is not paid within five (5) days of the adoption of the resolution it shall constitute a lien upon the real property and shall be collected as a special assessment against the real property.

7.06.80 Recordation of certificate – When nuisance is abated. When the Town council has by resolution declared that such property or thing being maintained as a nuisance and such resolution has been recorded and thereafter such nuisance is abated, Town personnel shall prepare and file with the Clerk and Recorder of Glacier County or the Bureau of Indian Affairs Realty Division a certificate stating that such nuisance has been abated and indicating the method of abatement.

7.06.90 Violation – Penalty. Any person violating any provision of this chapter is guilty of a misdemeanor pursuant to the general penalty chapter of this Code, Chapter 1.16.

CHAPTER 7.08

PUBLIC NUISANCES

Sections:

7.08.10	Public Nuisance defined
7.08.20	Offense designated
7.08.30	Extent of nuisance not limiting
7.08.40	Barbed wire and electric fences
7.08.50	Violation – Penalty

7.08.10 Public nuisance defined. “Public Nuisance” means:

A. A condition which endangers safety or health is offensive to the sense or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

B. Any premises where persons gather for the purpose of engaging in unlawful conduct; or

C. Any condition which renders dangerous for passage any public highway or right-of-way or water used by the public.

7.08.20 Offense designated. A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts or maintains a public nuisance.

7.08.30 Extent of nuisance not limiting. Any act which affects an entire community or neighborhood or any considerable number of persons in no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

7.08.40 Barbed wire and electric fences. A. It is a public nuisance for any person to have, maintain or erect or allow to have, maintain or erect a barbed wire fence or an electric fence upon any premises in the Town owned or occupied by such person or upon the boulevards or in any public roads, streets and alleys except as provided in subsection B. of this section. “Electric fence” means any conductive material encompassing a property or partial property and having an electrical potential to earth ground.

B. Exceptions:

1. A fence wherein the barbs are at least six (6) feet above grade and located on top of a security fence.

C. If the person fails to remove the barbed wire or electric fence within the time specified in a written notice of violation the Town personnel shall cause the fence to be removed from the premises and shall bill the cost thereof together with a reasonable charge for administration and supervision to the owner or occupant of the property.

7.08.50 Violation – Penalty. A person convicted of maintaining a nuisance shall be fined not less than two hundred dollars (\$200.00) or imprisoned in jail for a term not to exceed six (6) months or both. Each day of such conduct constitutes a separate offense.

CHAPTER 7.10 NOISE

Sections:

7.10.10	Definitions
7.10.20	Loud noises prohibited
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7.10.40	Noise levels – Limitations – db(A) criteria – Table II.
7.10.50	Noise levels – Maximum permissible for motorized vehicle – Table II
7.10.60	Noise levels – Exemptions
7.10.70	Noise-Measurements
7.10.80	Relief permit
7.10.90	Enforcement
7.10.100	Violations – From moving noise source or sources
7.10.110	Violations – Penalties
7.10.120	Violations – Additional remedy – Injunction

7.10.10 Definitions. As used in this chapter unless the context otherwise requires the following words and phrases shall have the following words and phrases shall have the meanings ascribed to them in this section:

A. “Ambient noise” is the noise which exists at a point of measurement in the absence of the sound emitted by the source being measured, being the total effect of all other sounds coming from near and far.

B. “db(A)” means sound levels in decibels measured on an “A scaled of a standard sound level meter having the characteristics defined by the American National Institute, publication S 4-1970.

C. “Decibel” means the sound pressure level in decibels in a logarithmic unit used to express the magnitude of sound pressure with respect to a reference sound pressure. It is defined as twenty times the logarithm to the base ten of the ratio of the sound pressure to the reference sound pressure. By international standards the reference sound pressure is 2×10^{-5} Newton’s/meter squared. For example a doubling of sound pressure at any magnitude will result in a six-decibel increase in sound pressure level; a tenfold increase will result in a twenty-decibel increase in sound pressure level.

D. “Emergency work” is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons of property from exposure to danger or potential danger.

E. “Health” is defined as an optimal State of physical, mental and emotional well being and not merely the absence of disease.

F. “Motor Vehicle” means a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state.

G. “Reasonable Person” is a normal, healthy person or ordinary habits and sensibilities who are entitled to enjoy ordinary comfort of human existence and not the extra-sensitive or fastidious person or the hardened individual inured to such irritation or annoyance.

H. "Person" means any person, person's firm association, copartnership, joint venture, corporation or any entity, public or private in nature.

7.10.20 Loud noises prohibited It is unlawful for any person to make or cause to be made any excessive or unusually loud noise, or any noise measured or unmeasured which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivity within the limits of the Town.

7.10.30 Prohibited acts. It is unlawful to perform any of the following acts within the Town limits: A. Horns and Signaling Devices. Sounding any horn or signaling device on any truck, automobile, motorcycle, or other vehicle on any street or public place of the Town except as a warning signal;

B. Sound Amplifying Equipment. Using, operating or permitting the use of any radio receiving set, musical instrument, television, phonograph, or other machine or device for the production or reproduction of sound in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person, or the operation of any such set, instruments, television, phonographs, machine or device in such manner as to be in violation of this chapter;

C. Operation of Sound Producing or Reproducing Equipment in or form a motor vehicle, either parked or in transport. The use or operation of any radio, compact disc or tape player, musical instrument, loud speaker, or any other device used to amplify any type of sound or which causes a vibration at a level where the sound or vibration can be heard or felt at a distance greater than 50 feet from the exterior of the vehicle from which the device is being operated. Violation of this section shall be punishable by a graduated fine schedule starting with a minimum of a written warning and a maximum of \$500.00. The following fine schedule is associated with violations of this subsection.

1 st offense	Written warning tracked by the court.
2 nd offense	\$30.00
3 rd offense	\$70.00
4 th offense	\$150.00
5 th offense	\$500.00

D. Loud Speakers and Amplifiers for Commercial Purposes. Installing, using operating within the Town a loudspeaker or sound amplifying equipment at levels in excess of those specified in Section 7.10.40 in a fixed or movable position or mounted upon any sound truck for the purpose of giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages, of persons in or upon any street, alley, sidewalk, park, place, or public property without first obtaining a permit;

E. Yelling and Shouting. Yelling, shouting, hooting, or whistling on the public streets, alleys, or parks at any time as to annoy or disturb the quiet, comfort, or repose of any normally sensitive and reasonable person;

F. Animals. Owning, keeping, having in possession or harboring any animals which, by frequent or habitual howling, barking, meowing, squawking, or any other noise as to disturb the quiet, comfort, or repose of any normally sensitive and reasonable person;

G. Exhausts. Discharging into the open air the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from;

H. Defect in Vehicle or Load. Operating any truck, trailer, automobile, motorcycle, or vehicle so out of repair or so loaded in such a manner as to create loud and unnecessary grating, grinding, rattling or other noises;

I. Loading, Unloading and Opening Containers. Loading, unloading, opening or other handling of boxes, crates, containers, garbage containers, or other objects in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person;

J. Construction Projects or Repair of Buildings. Operating equipment or performing any construction or repair work between the hours of ten p.m. and seven a.m. on buildings, structures or projects or operating any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other construction-type device in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person;

K. Exemption Clause. Any of the above acts performed for emergency work for the safety, welfare, and public health of the citizens of Browning and to the extent that the noise thereby created is reasonably necessary for the public benefit will not be construed to be in violation of this chapter.

7.10.40 Noise Levels – Limitations for structure and open spaces – dB(A) criteria Table I.

A. Maximum permissible decibel limits on noise emitting from source or sources not on a public right-of-way in residential, commercial, and industrial districts are as set out in this section.

B. Noise will be measured at a distance of twenty-five feet from the source or at the boundary of the lot, whichever is the greater distance. Noise radiating from properties or buildings in excess of the dB(A) established for the districts and times in Table I of this section shall constitute prima facie evidence that such noise is a public nuisance. This includes noise from such activities as production, processing, cleaning, servicing, testing and repair of vehicles, material, goods or products. Noises caused by home or building repair or grounds maintenance are excluded as provided in Section 7.10.60.

TABLE I

Limitations

Districts	8 a.m. to 9 p.m.	9 p.m. to 8 a.m.
Residential zones	55 dB(A)	50 dB(A)
Commercial	80 dB(A)	75 dB(A)

1. To be in violation, the source of sources of noise must be identifiable and the levels without regard to the ambient must exceed the limitations in Table I.
2. Periodic or impulsive noises are in violation when such noises are at a noise level of five dB(A) less than those listed in this section.
3. Construction projects shall be subject to the maximum permissible noise levels specified for commercial districts pursuant to any applicable construction permit issued by the building inspector, or if no time limitation is imposed, then for a reasonable period of time for completion of the project.

7.10.50 Noise levels – Maximum permissible for motorized vehicles – Table II.

- A. It is unlawful to operate a motorized vehicle within the Town limits which emits noise, with the exception of sound producing equipment as defined in 7.10.30 (C) in excess of the limits specified in Table II below.
- B. Noise from a noise source within a public right-of-way shall be measured at a distance of at least twenty-five feet from the center of the nearest traffic lane on a sound level meter of standard design and operated on the "A" weight scale.

TABLE II
Maximum Permissible Noise Levels For Motor Vehicles

1. Trucks and Buses.
 - a. Over 10,000 pounds:
 - 82 dB(A) measured at 50 feet
 - 88 dB(A) measured at 25 feet
 - b. Under 10,000 pounds:
 - 74 dB(A) measured at 50 feet
 - 80 dB(A) measured at 25 feet
2. Passenger Cars.
 - a. 74 dB(A) measured at 50 feet
 - b. 80 dB(A) measured at 25 feet
3. Motorcycles, Snowmobiles, All Terrain Vehicles, and Other Self-propelled Vehicles.
 - a. 74 dB(A) measured at 50 feet
 - b. 80 dB(A) measured at 25 feet.

7.10.60 Noise levels – Exemptions. The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals and warning devices;
- B. Noise resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency;
- C. Noise resulting from emergency work or noise for which a special permit has been granted, as provided for in Section 7.10.80;
- D. Noise resulting from the operating of motorized lawnmowers fitted with equipment-type mufflers between the hours of eight a.m. and eight p.m.;
- E. Noise caused by home or building repair or grounds maintenance between the hours of eight a.m. and eight p.m.;
- F. Athletic events held in parks;
- G. Noise resulting from marching bands and drum and bugle corps while practicing or parading.

7.10.70 Noise – Measurement. For the purpose of determining and classifying any noise as excessive or unusually loud as prohibited by this chapter, the following test measurements and requirements may be applied; but a violation of Section 7.10.20 may occur without the following measurements:

- A. The noise shall be measured on a sound level meter meeting current American National Standards Institute standards, operated on the "A" weighted scale;
- B. In all sound level measurements, the ambient noise shall be at least ten dB(A) below the specific noise source being measured; or
- C. In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time of the sound level measurement.

7.10.80 Relief permit. Applications for a permit for relief from the noise level designated in this chapter on the basis of undue hardship may be made to the Town of Browning City Hall. Any permit granted by the Mayor, Field Supervisor or the Chief of Police shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The Chief of Police may grant the permit applied for if he finds that:

- A. The additional time is necessary for the applicant to alter or modify the activity or operation to comply with this chapter;

B. The activity, operation or noise source will be of temporary duration, and cannot be performed in the manner that would comply with other sections of this chapter;

C. No other reasonable alternative is available to the applicant;

D. The Mayor, Field Supervisor or the Chief of Police may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or surrounding neighborhood.

7.10.90 Enforcement. The Chief of Police shall assign duties of enforcement to personnel trained in noise control techniques and procedures and equipped with sound level meters of a standard design. Enforcement of 7.10.30 rests solely with the police officer responding to the call or hearing the violation. Officers have the discretion in considering options available, including issuing a warning, a notice to appear, or arresting the violator.

7.10.100 Violations – From moving noise source or sources. Violations of this chapter in which the noise source is a truck, bus, passenger car, motorcycle, snowmobile, all terrain vehicle or other self propelled vehicle shall be cause for summons and warrant to issue forthwith. Machines or devises not customarily used or designed for transportation are excluded from this section.

7.10.110 Violations – Penalties. Whenever in any section of this chapter or rule or regulation promulgated under this chapter the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person who is convicted of a violation of any such section shall for each offense, be fined in a sum of not more than three hundred dollars (\$300.00) or imprisoned not to exceed ninety days, or both so fined or imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense.

7.10.120 Violation – Additional remedy – Injunction. As an additional remedy the operation or maintenance or any noise source in violation of any provision of this chapter and which causes discomfort and annoyance to any reasonable person of normal sensitivity or which endangers the comfort, repose, health or peace of residents in the area shall be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

