

TITLE 4

PUBLIC HEALTH AND SAFETY

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CHAPTER 1

COMMUNITY DECAY

SECTION:

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4-1-1: PURPOSE: The purpose of this chapter is to regulate, control, and prohibit conditions that contribute to community decay on or adjacent to all public roadways within the city. (Ord. 310,1-9-1995)

4-1-2: DEFINITIONS: In this chapter the following terms have the meaning indicated below:

AGENCIES: The agencies designated by the city to enforce this chapter.

COMMUNITY DECAY: A public nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, offensive to the senses, or which obstruct the free use of property so as to interfere with the comfortable enjoyment of life or the values of property. Community decay shall apply to the accumulation of rubble, debris, junk or refuse on agricultural land which is not necessary to the normal operation of the agricultural land. Community decay does not include properly permitted construction and demolition projects during the

time any necessary permits are in effect. Community decay does not include persons servicing, manufacturing or processing materials, goods or products on lots in public view, so long as the materials used in the normal operation of the business are neatly stacked and piled. Community decay does not include normal residential maintenance or landscaping.

- IN PUBLIC VIEW:** Any area visible from a point up to six feet (6') above the surface of the center of a public roadway.
- PERSON:** An individual, firm, partnership, company, association, corporation, city, town, or any other entity, whether organized for profit or not.
- PUBLIC NUISANCE:** A nuisance which affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
- SHIELDING:** Fencing or other manmade barriers to conceal a facility from public view. It also refers to natural barriers. Any shielding barrier must conform to all local zoning, planning, building and protective covenant provisions. (Ord. 310,1-9-1995)
- 4-1-3: **JURISDICTION:** This chapter applies to all of the city. (Ord. 310,1-9-1995)
- 4-1-4: **PROHIBITION:** It shall be a violation of this chapter to own or maintain any public nuisance or community decay.
- A. No person shall dump, pile, and/or stack bricks, concrete blocks, waste wood, and similar materials in public view unless said material is stacked in neat piles and all waste materials from the cleaning of such items, such as mortar, wood splinters, broken and unusable bricks, is removed to a licensed solid waste disposal facility or to a designated agency within thirty (30) days.

- B. No person shall store or accumulate cardboard boxes, broken packing boxes, paper, broken shipping pallets, rubble, debris, junk, refuse, dead animals or animal parts or other similar items in public view.
- C. No person shall pile, dump or deposit any dirt or demolition wastes including wood, bricks, concrete, used road blacktop, and/or other similar materials in public view, unless such material is to be utilized for fill material to fill a land depression. If such material is used as fill material, it may contain only dirt, bricks, concrete, and/or used road blacktop and all such materials must be completely covered with clean fill material within thirty (30) days of completion.
- D. No person shall store or accumulate iron, metal, machine parts, household appliances, barrels and/or other salvaged metal items in public view.
- E. No person shall accumulate or store any other rubble, debris, junk or refuse that, upon investigation, is deemed to be a "public nuisance" as defined in this chapter. (Ord. 310, 1-9-1995)

4-1-5: SHIELDING: The maintenance of materials that would be considered a public nuisance under this chapter shall be lawful if such materials are shielded from public view in accordance with the following standards:

- A. Compliance Required: Any shielding must conform to any local zoning, planning, building code and/or protective covenant provisions applicable to the property and shall be of sufficient height that none of the nuisance materials on the premises is visible to public view.
- B. Trees And Shrubs: Trees and shrubs may be used as shielding.
- C. Shielding Material: No more than one shielding material shall be used on anyone side of a shielding fence unless approved by the designated agency. (Ord. 310,1-9-1995)

4-1-6: ABATEMENT AND MITIGATION: The abatement or mitigation of conditions which constitute a public nuisance prohibited by this chapter shall be accomplished under the provisions of this section. Where an established industrial or commercial use results in the storage of materials otherwise prohibited in this chapter within public view due to an elevated public right of way or other circumstance beyond the

control of the property owner, the condition may be mitigated in accordance with the provisions of this section.

- A. **Initiation Of Proceedings:** Abatement or mitigation proceedings shall be initiated by the designated agency.
- B. **Inspection:** Within thirty (30) days of receiving a written, signed complaint that a condition of community decay exists, the designated agency shall conduct an inspection of the property alleged to be in violation of this chapter to determine whether there is a violation of this chapter.
- C. **Notice Of Violation:** If it is determined that there is a violation of this chapter, the designated agency shall notify the owner of the property, in writing, of the violation by certified mail and order its abatement or mitigation or submission of a plan for abatement. The notice shall:
1. Include a statement specifically describing the violation;
 2. Specify that the owner, manager, or lessee has thirty (30) days from receipt of such notice to bring the property into compliance or to submit a plan to comply with this chapter by means of removal, shielding or mitigation of the conditions; and
 3. Advise the owner, manager, or lessee that if the violation is not abated or mitigated, the deSignated agency may undertake abatement or mitigation and assess the costs of that abatement to the owner.
- D. **Plan Of Abatement:** The owner, manager, or lessee may, after receipt of a notice of violation, submit a plan of abatement or mitigation to the designated agency which shall include :
1. The type of abatement, shield or mitigation to be undertaken;
 2. The date for commencement of action; and
 3. The date for completion of the abatement or mitigation.
- The designated agency may accept such a plan and defer further proceedings under this chapter pending abatement or mitigation.
- E. **Actions By City:** In enforcing this chapter, the city shall first pursue a reasonable agreement with the property owner. If an agreement

cannot be reached, the city shall pursue criminal action. The city shall pursue abatement or mitigation procedures when necessary to protect the health, safety and welfare of residents of the city.

1. The city may assess the property owner, manager or lessee for the actual costs of the abatement or mitigation.

2. If the assessment is not paid, it shall become a lien upon the property and may be enforced as nonpayment of property taxes.

- F. Failure To Comply: In the event that the owner fails to comply with an abatement or mitigation order or an approved abatement or mitigation plan, the designated agency may enter upon the owner's property with the specific purpose of abating, mitigating or shielding the violation. (Ord. 310,1-9 -1995)

4-1-7: COMPATIBILITY: Nothing in this chapter or Montana Code Annotated section 7-5-2110 may be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution that is more restrictive than the provisions of this chapter or Montana Code Annotated section 7-5-2110. (Ord. 310 , 1-9-1995)

4-1-8: PENALTY: A person convicted of violating this chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed six (6) months, or by both fine and imprisonment. (Ord. 310 , 1-9-1995)

CHAPTER 2

CIVIL DEFENSE

SECTION:

- 4-2-1: Preamble
 4-2-2: Mayors And County Commissioners
 4-2-3 : County Civil Defense Director

4-2-1: PREAMBLE: The county of Sanders and the municipalities of Hot Springs, Plains and Thompson Falls civil defense plan provides for an integrated cities-county organization for civil defense and for operations during periods of emergency. It thereby constitutes the most effective and efficient means of meeting the civil defense needs of the city and its citizens by making maximum use of the existing agencies and capabilities of local government within Sanders County. Supported by volunteers and private sector personnel and resources, it could prevent or minimize loss of life and property that could be caused by enemy attack or other disaster affecting the city. The mayor is hereby authorized to approve such revisions of such civil defense plan as may be made from time to time if he deems the revisions to be necessary to meet the civil defense needs of the city and its citizens. (1985 Code § 9.06.01)

4-2-2: MAYORS AND COUNTY COMMISSIONERS: The mayors of the municipalities of Hot Springs, Plains and Thompson Falls and the board of county commissioners of Sanders County shall, during periods of emergency caused by enemy attack or other catastrophe or disaster affecting the city, jointly direct and control the operations of the cities-county organization for civil defense established in such civil defense plan. The mayor is hereby authorized and directed to take, during such periods of emergency, such actions as are reasonably necessary to prevent or minimize loss of life and property, in cooperation with said board of county commissioners and the county civil defense director. (1985 Code § 9.06.02)

4-2-3: COUNTY CIVIL DEFENSE DIRECTOR: The county civil defense director, under policy guidance of the board of county commissioners in coordination with the mayors, is responsible to conduct the following: day to day training, assignment of personnel, licensing, marking and stock of public shelters, preparation of program paper, administration of civil defense program, coordination of the program with all departments, development of civil defense plan and supporting documents for approval by the mayors of Hot Springs, Plains and Thompson Falls and county commissioners. The civil defense director will act as chief of staff to the executives of the county and cities. (1985 Code § 9.06.03)

CHAPTER 3

OPEN BURNING

SECTION:

4-3-1:	Definitions
4-3-2:	Residential Burning
4-3-3:	Permit Required
4-3-4:	Precautions
4-3-5:	Prohibited
4-3-6:	Penalty

4-3-1 : DEFINITIONS: As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

BURN PERMIT: A permit for outdoor burning issued by the city fire department.

RESIDENTIAL BURNING: The burning of small outdoor fires consisting of leaves, grass, prunings and other yard and gardening refuse burned on lands immediately adjacent to and in close proximity to a human dwelling by the property owner or his designees. No garbage, railroad ties or tires may be burned . (Ord. 316, 6-1996)

4-3-2: **RESIDENTIAL BURNING:** There shall be no outdoor burning within the city except residential burning which may be permitted only under the conditions set out in this chapter. (Ord. 316, 6-1996)

4-3-3: **PERMIT REQUIRED:** A fire permit must be obtained prior to the commencement of any residential burning larger than four feet (4') in diameter and three feet (3') in height. Any fire permit so obtained

may be cancelled by the fire department upon its finding that this chapter is not complied with or that the residential burning causes a hazard or a nuisance. Upon the cancellation of a fire permit, any fire started pursuant to that permit shall be extinguished immediately. (Ord. 316, 6-1996)

4-3-4: PRECAUTIONS: The following precautions shall be taken:

- A. The fire shall be attended at all times.
- B. Sufficient means to extinguish the fire shall be provided at all times, i.e., water, shovel, bucket, etc.
- C. No fire shall be started earlier than ten o'clock (10:00) A.M. nor burned after sundown.
- D. No fire shall be closer than ten feet (10') to any structure.
- E. No fire shall endanger persons or property.
- F. The property owner shall be responsible should the fire cause damage to other property or if the fire department must be called out. Property owner may be billed at the discretion of fire chief or his designated representative.
- G. Three (3) day advance notice is required to issue permit.
- H. This permit covers pile burning only. Lot burning must be inspected and specifically approved by the fire chief. (Ord. 316, 6-1996)

4-3-5: PROHIBITED: The burning of any material not described in "residential burning" as defined in section 4-3-1 of this chapter is prohibited. (Ord. 316, 6-1996)

4-3-6: PENALTY: Any person who violates or fails to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor. (Ord. 316, 6-1996)

CHAPTER 4

HAULING AND DUMPING GARBAGE

SECTION:

- 4-4-1: Littering
- 4-4-2: Dumping

4-4-1: LITTERING: It shall be unlawful for any person hauling garbage, refuse or litter in any vehicle within the city to allow said garbage, refuse or litter to fall, blow, or in any way be scattered upon the streets, alleys and roads of the city. (1985 Code § 7.08.01)

4-4-2: DUMPING: It shall be unlawful for any person to throw or dump garbage, refuse or litter from any vehicle upon any street, alley or road within the city. (1985 Code § 7.08.02)

CHAPTER 5

LITTERING

SECTION:

- 4-5-1: Littering
 4-5-2: Vehicles To Be Covered

4-5-1 : LITTERING:

- A. Prohibited: It shall be unlawful for any person to cast, throw, sweep or deposit in any manner in or upon any public way or other public place in the city, or any river, drain, gutter, sewer or receiving basin within the jurisdiction of the city, any kind of dirt, rubbish, waste article, thing or substance whatsoever, whether liquid or solid. Nor shall any person cast, throw, sweep or deposit any of the aforementioned items anywhere within the jurisdiction of the city in such manner that it may be carried or deposited in whole or in part by the action of the wind, sun, rain or snow, into any of the aforementioned places.
- B. Exception: Provided, that this section shall not apply to the deposit of material under a permit authorized by any ordinance of the city, or to goods, wares or merchandise deposited upon any public way or other public place temporarily in the necessary course of trade and removed therefrom within two (2) hours after being so deposited, or to articles or things deposited in or conducted into the city sewer system through lawful drains in accordance with the ordinances of the city relating thereto. (1985 Code § 9.08.01)

- 4-5-2: VEHICLES TO BE COVERED: It shall be unlawful for any person to use any vehicle to haul any kind of dirt, rubbish, waste, article, thing or substance, whether liquid or solid, unless such vehicle is covered so as to prevent any part of its load from spilling or dropping at all times while such vehicle is in motion on any street or alley in the city; provided, however, that the requirements herein for covering such

vehicles shall not apply to vehicles carrying brush cutting, tree trimmings , branches, logs and similar waste material , if such matter is securely lashed to such vehicle to prevent spilling or dropping as aforesaid . (1985 Code § 9.08.02)