

ADMINISTRATIVE MEETING

October 26, 2016

4:00 p.m. to 6:00 p.m.

Room 326

AGENDA

1. **Call to order, introductions, opening comments**
2. **October 12, 2016 Administrative Meeting summary**
3. **Commission comments, questions**
 - Upcoming appointments
4. **City Manager's Report**
5. **Department discussions**
 - Administrative Services**
 - 2017 Utility Bill Inserts
 - Tax Recertification Discussion
 - **Consensus Direction to Manager:**
 - Public Works**
 - Snow Plan Discussion
 - **Consensus Direction to Manager:**
 - City Attorney**
 - Community Decay Ordinance Discussion
 - **Consensus Direction to Manager:**
6. **Committee discussions**
 - a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns
– Mayor Jim Smith
 - b) Mayor Pro-Tem, Audit Committee, Helena Chamber of Commerce Liaison, Information Technology Committee, Transportation Coordinating Committee
– Commissioner Dan Ellison
 - c) ADA Compliance Committee, Audit Committee, City-County Parks Board , Civic Center Board
– Commissioner Rob Farris-Olsen
 - d) Board of Adjustment, City-County Administration Building (CCAB), Non-Motorized Travel Advisory Board, Transportation Coordinating Committee
– Commissioner Andres Haladay
 - e) Business Improvement District/Helena Parking Commission ,Montana Business Assistance Connection, Public Art Committee
– Commissioner Ed Noonan
 - f) Helena Citizens Council
7. **Review of agenda for October 31, 2016 Commission meeting**
8. **Public comment**
9. **Commission discussion and direction to City Manager**
10. **Adjourn**

City of Helena, Montana

ADA NOTICE

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(406) 447- 8490

TTY Relay Service 1-800-253-4091 or 711

citycommunitydevelopment@helenamt.gov

316 North Park, Avenue, Room 440, Helena, MT 59623

City of Helena, Montana

Date: October 18, 2013
To: Ron Alles, City Manager
From: Glenn Jorgenson, Administrative Services Director
Re: 2017 Water Bill Insert Requests

We have prepared the 2017 Utility Bill Insert List for the City Commission approval. At the October 26th Administrative Meeting, the City Commission will be asked which utility bill insert requests they would like to consider for final approval. Then the Commission will be asked to approve the final list of inserts at their November 14th regular Commission meeting.

Staff has followed the guidelines set forth in Resolution #19491 to establish the priority level of the inserts as follows:

1. City of Helena and its departments;
2. Helena Citizen's Council, City advisory boards and commissions (e.g. Zoning Commission, City-County Planning Board and City-County Board of Health), quasi-city government agencies (e.g. County Library), and non-profit entities with 501(c)(3) status under the Internal Revenue Code (IRC) contracted with by the City to provide government-type services (e.g. Humane Society);
3. Other government entities and agencies (e.g. County, State and Federal), quasi-governmental agencies, and non-profit entities with 501(c)(3) IRC status that privately provide government-type services (e.g. Prickly Pear Land Trust and Growing Friends of Helena); and
4. Non-profit organizations with 501(c)(3) IRC status and that have a Helena-based headquarters and serve as a partnership for federated giving programs for other eligible entities with 501(c)(3) IRC status (e.g. Montana Shares and the United Way of Lewis and Clark County).

The attached list shows all the requests for each month. We were unable to accommodate only one non-profit request. A sample of each insert is on file for Commission review if requested.

Attachment: 2017 Insert Calendar

City of Helena, Montana

2017 INSERT REQUESTS

Priority Level	1	2	3	4				
Name	City	Quasi-City	Other govt & quasi govt	Other Non-Profit	Mailed First Week of:	Year	Description	Contact Person
City of Helena - Street/Sidewalks	X				January	2017	snow removal	Ben Sautter, Laurie Miller, Greta Dige
Montana Legal Services				X	January	2017	general information	Alison Paul
City of Helena - Bus	X				February	2017	general bus information	Steve Larson
City of Helena - Helena Citizens Council		X			February	2017	general information	Mary Vandebosch, Debbie Havens
City of Helena - Kay McKenna Youth		X			March	2017	Kay's Kids programs	Todd Wheeler
Growing Friends			X		March	2017	info and donations	James Driggers
City of Helena - Transfer Station	X				April	2017	spring clean up	Jake Larson, Pete Anderson
City of Helena - Animal Control	X				April	2017	animal control	Steve Hagen
City of Helena - Parks & Rec./summer	X				May	2017	summer recreation programs	Todd Wheeler
City of Helena - Community Development	X				May	2017	National Bldg. Month	Jon Pallister
City of Helena - Water	X				June	2017	annual water report-no others.	Lynora Rogstad
City of Helena - Weed Control	X				July	2017	Weed-joint with county	Greta Dige
GrandStreet Theatre			X		July	2017	announce new season's shows	Kal Poole
City of Helena - Utility Customer Service	X				August	2017	water/ww rates & charges	Darla Flansaas
City of Helena - Fire Department					August	2017	unknown at this time	Mark Emert
Montana Shares				X	September	2017	donations	Kristi Paulson
Holter Museum				X	September	2017	general information	Seth Roby
City of Helena - Storm water	X				October	2017	storm water information	Matt Culpo-Storm Water Engineer
Downtown Helena, Inc.		X			October	2017	downtown fall activities	Haley Miller
City of Helena - Street/Sidewalks	X				November	2017	street/sidewalk info	Ben Sautter, Laurie Miller, Greta Dige
Montana Foundation for Animals				X	November	2017	donations	Marilyn Evans
City of Helena - Parks & Rec./winter	X				December	2017	winter recreation programs	Todd Wheeler
City of Helena - Admin Services-Accounting	X				December	2017	new software to pay licenses	Darla Flansaas, Glenn Jorgenson
There was only one request that we could not accommodate this year. It was the MT Independent Living Project and their request was for March or April.								

Date: October 18, 2013
To: Ron Alles, City Manager
From: Glenn Jorgenson, Administrative Services Director
Re: Northwestern Energy Settlement

The State Department of Revenue (DOR) settled with Northwestern Energy on the protested value of their newly taxable property. The settlement decreased the City's newly taxable property valuation by \$602,169. This will amount to a tax revenue loss of \$100,588 ($\$602,169 \times .16732$ (167.32 mills)) from what was originally certified. However, since it is all due to the valuation of newly taxable property, we didn't collect taxes on it in past years and did not actually "lose" any revenue. We are just receiving a lower amount than anticipated from the original certified value.

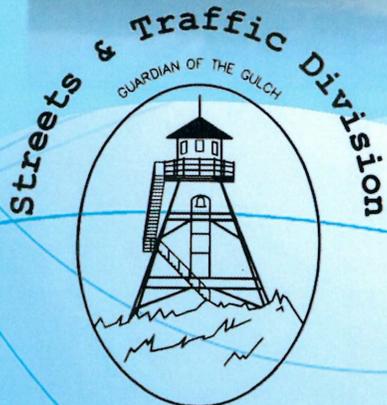
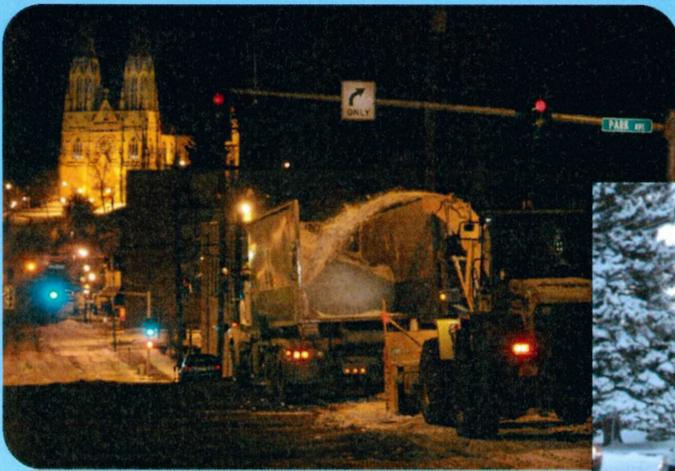
The City could request a recertification from DOR. Staff recommends not requesting a recertification from DOR as the City would lose the revenue either way. The City is allowed to set its mills based on the prior year's tax revenue, plus $\frac{1}{2}$ the rate of inflation for the previous three years, plus new growth. If we requested recertification, the new growth amount would decrease and we would be levying the same mills against the lower taxable valuation resulting in the same loss. Recertifying would require a resolution at a regular commission meeting and would likely delay the County's taxation process for no net revenue change to the City.

The City calculated receiving \$9,672,317 in general fund taxes and \$825,005 for our general obligation bonds for a total of 10,497,322. This was an increase of \$404,948 over the prior year. Since the DOR is constantly changing taxable values due to other protested taxes and corrections of errors this will not be the only change. Overall, this is a large decrease from one taxpayer for this year, but we normally lose \$80,000 to \$200,000 per year due to DOR changes from the time of certification, and it is therefore a normal part of our taxation process.

City of Helena, Montana



Snow & Ice Control Plan



City of Helena



FORWARD

The purpose of the Snow and Ice Control Plan is two-fold: (1) to provide the general public and City officials with an insight into the complexity of snow and ice control operations; and (2) to summarize policies and procedures to be followed by City personnel.

Snow and ice control is often a matter of choosing between two evils. For example, plowing snow to the side of the street may clean the center but it often covers sidewalks and blocks driveways. Plowing to a windrow down the center of the street may alleviate these problems, however, may create others by impeding left turns, restricting traffic flow and it can put pedestrians at risk. The purpose of this plan is to set forth the issues and to establish policy and procedural guidelines.

This plan addresses four different aspects of snow & ice control: Level of Service; Priorities; Operational Procedures; and Special Requests.

Level of Service is controlled by balancing the resources committed to snow and ice control versus the public's willingness to pay for this service.

Setting Priorities recognizes that all streets cannot be cleared simultaneously.

Operational Procedures are aimed at implementing the plan as effectively and efficiently as possible.

Special Requests for services are an inherent part of snow and ice control efforts and must be addressed.

I. LEVEL OF SERVICE

The range of service possibilities vary from a “curb to curb bare asphalt” removal of snow on every street, alley, sidewalk and pedestrian crosswalk in the city to a policy of “do nothing” and wait for Chinook winds to melt it. The first extreme is not within the realm of practicality and the second is unacceptable to the residents of Helena. A snow and ice control program includes varying levels of service for City streets, depending on a variety of factors such as traffic volumes, emergency access, public safety and available man power and equipment.

The primary objective of the Street Division is to provide for the safe and orderly movement of traffic throughout the city during all types of weather, including severe winter storms. Although City streets, including major arterials, may be temporarily closed during extremely severe conditions, the Street Division will use available resources to prevent closing or to keep the duration of closures to a minimum. Although the Street Division tries to keep all lanes of traffic moving during extreme conditions, travel may be limited to one lane of vehicular traffic in each direction.

Sidewalks, driveways and alleys are also concerns. Due to limitations on manpower and equipment and due to the large area of emergency snow routes and arterial routes to be handled the following limitations must be placed on services rendered:

1. The Street Division cannot clear sidewalks nor attempt to “dig out” private driveways.
2. The Street Division cannot sand or plow parking lots or on street parking spaces.
3. Due to the oversize width of our equipment and the fact that there is nowhere to place the plowed snow, the Street Division cannot plow or sand alleys.

Recognizing that it is not possible for the Division to remove all of the snow from the streets concurrently, the level of service to be provided is summarized below:

The Street Division shall use available resources to keep public streets in the City open for travel during all but the most severe weather conditions.

When extreme weather conditions severely restrict or halt traffic movement, the Street Division will operate continuously, 24 hours per day, seven days a week, plowing and sanding streets in order of priority as provided for in this plan.

These operations will continue although the level of effort may decline as progress is made on the priority list until traffic movement is restored to a safe and acceptable level throughout the city.

In order to assist the efforts of the Street Division, by ordinance, property owners or building occupants are prohibited from placing snow and ice on public streets and alleys. Driveways, alleys, and parking areas in any area shall be cleared so that snow and ice from such areas are not placed in the public streets.

During conditions that exceed the Street Division's capability of maintenance, private contractors will be contacted for equipment and manpower.

Contractors' equipment used would consist mainly of motor patrols used for snow plowing operations. However, under extreme snowfall conditions, trucks and loaders could assist City operations in snow removal. In situations of extremely heavy snowfall a coordinated effort between the contractors and city personnel would be necessary. This could be done with the use of our existing emergency snow route maps and normal operating procedure using the contractor's equipment to plow and the city equipment to follow and maintain. This effort could continue for snow removal operations if deemed necessary.

II. PRIORITIES

The City of Helena receives an annual average snow fall of 38.1 inches. Snowfall is often accompanied by winds and sub-zero temperatures. This plan recognizes that it is not possible to remove all of the snow simultaneously from all streets. Factors affecting snow and ice control operations include conditions prior to the storm, snowfall rate and accumulation, moisture content, temperature change before, after and during the storm, time of day, wind velocity, the duration of the storm, manpower and equipment availability. Priorities must be established so that major arterials and other collector streets are cleared first in order that traffic may continue to move safely and efficiently on the City's street network. This plan establishes and defines the following priorities: (see Appendix I for maps).

Priority One: Emergency Snow Routes

Streets designated in ordinance as emergency snow routes and signed as such within the street right-of-way.

The purpose of this designation and signage is to alert the public that these streets are to be kept clear of parked vehicles upon declaration of a snow emergency, which may interfere with snow and ice control operations.

Upon declaration of a snow emergency by the City Manager or his designated representative, vehicles left unattended on the emergency snow route system shall be removed at the owner's expense. (Emergency Snow Route Ordinance 7-8-6)

Emergency snow routes are given priority one designation as they provide a network system of access for the public to reach prime destinations within the City of Helena.

Priority Two: Major Arterials/Selected Collector Streets

Although not specifically delineated in ordinance, priority two streets are those streets interconnecting priority one streets and completing the major street network with particular attention to schools, hospitals and business areas.

Major street arterials/selected collector streets are given priority two designation as they serve to complete the major street network within the city.

Priority Three – Residential/Special Requests:

Once the storm is over and all the Priority 1's and 2's are plowed and sanded, work will begin on plowing and sanding the residential streets. It will take a minimum of two days or more after the storm has ended to plow the residential streets depending upon the conditions, manpower and equipment available.

Special requests will be responded to once the need is verified by the Street Division. The response will depend on resource availability (manpower, equipment, etc.) and the back log of requests.

III. OPERATIONAL PROCEDURES

For the purpose of snow and ice control, the City is divided into eight areas: Downtown, Upper East, Lower East, Upper West, Lower West, Dogleg, Northside and Highway 12. The maps in Appendix I identify these areas.

The Street Division Supervisor will respond to advance notice of an approaching storm by taking the following steps:

- 1) Ordering plows and/or sanders to be installed on trucks;
- 2) Closely monitoring weather developments;
- 3) Scheduling the crew for around the clock response;

- 4) Alerting crews that they may be called back to work at any time due to possible weather conditions.

When snowfall or freezing rain is possible, the Street Division Supervisor will direct crews to begin operations when, in the Supervisors' opinion, one or more of the following conditions exist:

- 1) Icing of streets is occurring or likely to occur, creating a hazard to traffic;
- 2) Snowfall accumulation, which exceeds two inches (2") on emergency snow routes, is imminent or occurring;
- 3) Snowfall has accumulated on non-priority streets in amounts sufficient to halt or block traffic. This typically means an accumulation exceeding five inches (5") on the streets.

For each of the three conditions described above, the following practices will be used:

Condition 1: Slick or icy spots will be sanded to reduce the hazard or danger to traffic. Particular attention will be given to areas near stop signs, traffic signals and hills, especially those on or adjacent to streets on the emergency snow route system.

Condition 2: When snow depth exceeds two inches, snow plowing crews will commence plowing on emergency snow routes. The goal is to keep these streets open to travel so that emergency service vehicles can reach all parts of the city with minimal delay. Snow will be plowed to the curb line on emergency snow routes.

Condition 3: Plowing of residential streets will be from curb to curb. Plowing of residential streets will not typically begin until after the emergency snow routes, high traffic volume streets, hospital and business districts have been cleared of snow accumulation.

All plowing will normally be done by pushing snow toward the side of the street and leaving the berm approximately two feet from the curb. Care shall be exercised by operators to minimize the blocking of driveways and burying sidewalks. The Street Division Supervisor, however, recognizes that blocking driveways and burying sidewalks is at times unavoidable. The burden is then with the property owner or occupant to clear them.

The city will use a chemical deicer (magnesium or calcium chloride) with a rust inhibitor agent in lieu of straight road salt. This material will be applied primarily in the Downtown Business District. The liquid application can occur in temperatures as low as 10 degrees Fahrenheit.

The chemical deicer material can be applied prior to a storm (weather permitting) to prevent the bonding of ice and snow pack to the street surface. Application of this material to a dry clear street will occur on some occasions in anticipation of a predicted snowfall.

Road salt is added to our sanding materials at a 2 - 3% salt to sand ratio. This will prevent the sand from freezing and becoming unworkable. All sanding trucks are equipped with liquid dispensing tanks that apply a minimum amount of chloride to the sand. This enables the sand to stick to any icy surface.

The act of plowing snow to the center of the street where it is loaded into trucks with frontend loaders is limited due to the high cost and manpower demands associated with this process. It is done selectively using the following criteria:

- Access parking
- Provide additional snow storage
- Facilitate traffic movements

This operation is not started until plowing and sanding of all priority routes has been completed and conditions allow.

IV. SPECIAL REQUESTS

Persons who have questions about snow and ice control or unsafe winter driving conditions should contact the City of Helena Street Division at 447-1566. Calls received by the Street Division during or after a winter storm will be logged in order to provide a record.

Since the Street Division receives a large number of special requests during and after a winter storm, it is not possible to dispatch snow and ice control equipment immediately upon request. The Supervisor shall substantiate special requests by means such as:

- 1) Radio messages from equipment operators, police and/or dispatch;
- 2) Information from the street foreman;
- 3) Multiple requests from the same general area.

Once a request is determined to be valid, the supervisor shall respond except in cases of extenuating circumstances. Special requests shall not be given priority over the planned schedule. The response action will depend on resource availability and the number of special requests to be dealt with.

V - Record Snowfall Event

During a record snowfall event there will be a time frame of initial immobilization throughout the city. During such an occurrence, not only could the streets be impassable but many other factors may enter into the confusion such as loss of telephone, power and heat.

The most important step during a disaster of this nature would be keeping the public informed, reassuring everyone that the Street Division is working and that more equipment is on the way. Emergency travel only notifications should be

broadcast and a status report as to road conditions and plowing operations should be given to the public twice daily. Vehicles should either be removed from the streets or be flagged on the antennas, as snow removal could result in some vehicles getting buried in the process.

Emergency areas would be cleared by the various agencies using the eight areas previously set as guidelines. The Street Division would be divided into two or three shifts providing a 24-hour coverage and coordination of efforts. This would enable City employees familiar with the established snow routes to direct operations in each of the eight designated areas. Contracted crews could begin snow plowing or removal efforts but they are not typically equipped to sand cleared streets. At this point, City employees directing the operation could provide the necessary sanding of intersections and inform the general public as to what streets are passable. The advantages of using our own Street Division employees to direct the initial operation is their familiarity with the snow routes and the fact that they could maintain radio communication, thus allowing us to keep the public informed on the progress being made.

Snow removal efforts by private businesses may also present some problems. Our present storage area is inadequate for any type of record snowfall. Areas to be considered for storage could be:

- Batch Field and behind Bill Robert's Golf Course;
- Henderson Street ponds (no blockage of channels or culverts);
- Ryan Field
- Fairgrounds.

Caution should be exercised when storing snow in areas of retention ponds or natural drainage areas as a sudden freeze situation could further complicate matters.

VI - Street Division Snow Equipment

2 tandem axle ten cubic yard dump trucks with plows and sanders
6 single axle five cubic yard dump trucks with plows and sanders
1 single axle deicer truck with a plow
1 single axle 1 ½ ton four wheel drive truck with plow and sander
1 single axle four wheel drive pickup truck with plow and sander
2 road graders one with a snow gate
one snow blower

VII - City of Helena Staff and Shift Schedule

The Street crew consists of 10 full time operators and 1 full time supervisor
The Traffic Division can be called upon for support of one more operator

Manpower is scheduled according to needs with shifts beginning at

4:00 am

7:00 am

1:30 pm

The Street crew can run up to 12 hour shifts 7 days a week

October 14, 2016

TO: Ronald J. Alles, City Manager

FROM: Thomas J. Jodoin, City Attorney 

Subject: Consider first passage of an ordinance clarifying community decay regulations by amending Chapter 11 of Title 7 of the Helena City Code.

Present Situation: Chapter 11 of Title 7 of the Helena City Code currently contains the prohibition against the keeping of “community decay,” as well as the notice and enforcement procedures for abating such community decay.

The current language contains conflicting wording and a criminal prosecution procedure that makes enforcement problematic. The amendments can broadly be characterized into two categories. The first generally clarifies what the prohibited act is and the second decriminalizes the offense of having community decay on a person’s property.

In terms of the first substantive change, the definition of “community decay” is deleted and incorporated into the substantive prohibitions. Currently, the definition of “community decay” and the specific materials prohibited to be stored or accumulated on a property are inconsistent. Similarly, the term “public nuisance” is deleted and incorporated into a general “catch all” provision which prohibits conditions on a property that threaten or endanger the public health, welfare, and safety, may reasonably cause disease, adversely affect and impair the economic welfare of adjacent property, or obstruct 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.

The second substantive change creates a civil enforcement procedure and removes the provisions that violation of this chapter is a potential misdemeanor offense.

Proposal: Adopt an ordinance clarifying community decay regulations by (1) simplifying the prohibited acts and (2) creating a civil enforcement procedure to be used instead of a criminal prosecution.

Advantage: Clarifying the prohibited conditions will improve the City’s ability to respond to community decay complaints. A civil enforcement process eliminates the need to use the criminal justice system which is inefficient and aimed more at punishment rather than ameliorating the issue. This is especially critical because in most instances of community decay the owner is dealing with mental health issues. A civil enforcement process is much better suited to resolve the problem and potentially assist the property owner with clean up of the property through the involvement of local mental health service providers.

Notable Energy Impact: None noted.

Disadvantage: None noted.

City of Helena, Montana

Notice of Public Hearing: N/A

Recommended Motion: Move to APPROVE first passage of an ordinance amending the City's community decay regulations by amending Chapter 11 of Title 7 of the Helena City Code, and set a public hearing date of _____, 2016.

AN ORDINANCE AMENDING THE CITY'S COMMUNITY DECAY REGULATIONS BY
AMENDING CHAPTER 11 OF TITLE 7 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY
OF HELENA, MONTANA:

That Title 7, Chapter 11, "Community Decay" of the Helena City
Code is hereby amended as follows:

CHAPTER 11
COMMUNITY DECAY

SECTION:

- 7-11-1: Intent
- 7-11-2: Definitions
- 7-11-3: Prohibitions
- 7-11-4: ~~Shielding~~ Screening
- 7-11-5: ~~Abatement~~ And Mitigation
- ~~7-11-6: Jurisdiction~~
- ~~7-11-7: Penalty~~
- ~~7-11-8: Effective Date~~
- ~~7-11-9: Compatibility~~
- 7-11-10: Severability

7-11-1: INTENT:

The purpose of this chapter is to regulate, control and prohibit conditions that contribute to community decay on, adjacent to, or visible from all public roadways and rights of way within the city, so as to improve property values and increase community awareness of each individual's responsibilities and obligations as good citizens and good neighbors.

7-11-2: DEFINITIONS:

For purposes of this chapter, the following definitions shall apply:

~~COMMUNITY DECAY: Any public nuisance created by allowing rubble, debris, junk, refuse, landscaping debris or other matter to accumulate, resulting in conditions that are injurious to~~

health, are indecent, are offensive to the senses, or which obstruct the free use and enjoyment of adjacent property so as to interfere with the comfortable enjoyment of life or the values of property. This definition does not apply to properly permitted construction and/or demolition projects during the time any necessary permits are in effect. This definition 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 or piled. This definition does not include normal residential maintenance or landscaping projects.

~~DEPARTMENT:~~ The agency of city government designated by the city manager to enforce this chapter.

~~PERSON:~~ Any individual, firm, partnership, company, association, corporation, city, town or other entity, whether organized for profit or not.

~~PUBLIC NUISANCE:~~ Any 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.

~~PUBLIC VIEW:~~ Any area visible from a point up to six feet (6') above the surface of the center of a public roadway or right of way.

~~SHIELDING:~~ Any natural barriers, fencing or other manmade barriers used to conceal from public view. All must conform with all local zoning, planning, building and protective covenant requirements. All shall be of sufficient height and density to conceal any on the premises from public view.

7-11-3: PROHIBITIONS: It shall be a violation of this chapter is unlawful to own, maintain, or allow community decay the following conditions within public view as follows:

- A. To accumulate, store, dump, or pile, rubble, debris, junk, refuse, landscaping debris and or similar material

in public view unless ~~said~~ the material is stacked in neat piles or screened from view;

~~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, demolition waste, including wood, bricks, concrete, used road black top, 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 black top, as allowed by local, state and federal regulations. All such material must be completely covered with clean fill material once every thirty (30) days and the fill area must be adequately fenced to restrict access to the area.~~

~~D.B. No person shall To store or accumulate iron, metal, machine parts, household appliances, barrels 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.~~

~~FC. Abandoned vehicles shall be handled pursuant to subsection 8-11-1D of this code, and junk vehicles shall be handled pursuant to section 75-10-501, Montana Code Annotated. Junk vehicles, as defined by state law, located on the property will be handled pursuant to state law and are not subject to this chapter.~~

D. Buildings which are boarded up, partially destroyed, or partially constructed or uncompleted buildings after building permits have expired.

E. Any condition which results in the property being infested or inhabited by rodents, vermin, or mosquitoes, or threatens or endangers the public health, welfare, and safety.

F. The above prohibitions do not apply to properly permitted construction or demolition projects during the time any necessary permits are in effect.

- G. The above prohibitions do not apply to materials that are used in the normal operation of a permitted use in the zoning district in which the property is located.
- H. The above prohibitions do not include normal residential maintenance or landscaping projects.

7-11-4: SHIELDING SCREENING:

~~The maintenance of material that would be considered a public nuisance~~ above prohibitions shall may be lawful under this chapter if such prohibited conditions material is shielded are screened from public view in accordance with the following standards and would not reasonably expected to become infested or inhabited by rodents, vermin, animals or to furnish a breeding place for mosquitoes; threaten or endanger the public health, welfare, and safety; cause disease; adversely affects and impairs the economic welfare or adjacent property; or obstruct 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:

A. ~~Any shielding must conform to all local zoning, planning, building code and protective covenant requirements applicable to the property and shall be of sufficient height and density that none of the nuisance material on the premises is visible to public view.~~ Screening must be by a fence, wall, or vegetation that is no less than three feet (3') in height when planted. The screening must be designed and established so that no less than seventy five percent (75%) of any thirty six (36) square foot portion of the entire screening is opaque. Only the first six feet (6') in height is used to determine the area of the screening. The opaqueness of vegetation used as screening is measured as of its growth in July and after the third full growing season. Tarps or blankets are not acceptable screening materials.

B. ~~Trees, hedges and shrubs are preferred as shielding.~~

C. ~~No more than one nonvegetative shielding screening material shall may be used on any one side of a shielding barrier screening unless approved by the designated department.~~

D. ~~All materials must comply with all local, state and federal regulations, including the uniform fire code.~~

7-11-5: ~~ABATEMENT AND MITIGATION:~~ The ~~abatement or mitigation of the above prohibited conditions which constitute a public nuisance prohibited by this chapter shall be accomplished under the provisions of this section. Where an established use results in the storage of material 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 shall be mitigated in accordance with the provisions of this section.~~

A. ~~Initiation:~~ ~~Abatement or mitigation shall be initiated by the designated department.~~

BA. ~~Inspection:~~ Within ~~thirty (30)~~ ten (10) days of receiving a signed, written complaint that a prohibited condition of ~~community decay~~ exists, the ~~designated~~ Community Development department shall conduct an inspection of the property alleged to be in violation of this chapter to determine whether there is, in fact, a violation.

CB. ~~Notice:~~ If it is determined that there is a violation of this chapter, the ~~designated~~ Community Development department shall notify the owner of the property of the violation, in writing and by certified mail, and order the ~~abatement or mitigation~~ of the violation or the submission of a plan for ~~abatement or mitigation~~ within thirty (30) days. The notice of violation shall:

1. Include a statement specifically describing the violation;
2. Specify that the owner, ~~manager or lessee~~ of the property 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~~ screening or mitigation of the condition(s); and
3. Advise the owner, ~~manager or lessee~~ of the property that if the violation is not ~~abated or mitigated~~, ~~the designated department may undertake abatement or mitigation and assess the costs thereof to the owner of the property~~ the city may request the municipal court judge to order abatement or mitigation of the violation and if the owner fails to comply with that order they maybe charged with contempt of court and the city authorized to enter the property to effect the abatement or mitigation of the violation at the owners expense.

- D. ~~Plan Of Abatement Or Mitigation:~~ The owner, ~~manager,~~ or ~~lessee~~ of the property may, after receipt of a notice of violation, submit a plan of abatement or mitigation to the designated department which shall include:
1. The type of abatement, ~~shield~~ screening, or mitigation to be undertaken;
 2. The date for commencement of action which shall not exceed a total of ninety (90) days; and
 3. The date for completion of the abatement or mitigation.
- E. The ~~designated~~ Community Development department may accept such a plan and defer further proceedings under this chapter pending abatement or mitigation.
- ~~E. F.~~ F. ~~Enforcement:~~
- ~~1.~~ After thirty (30) days, or the date agreed to by the property owner and the ~~designated~~ Community Development department, ~~which shall not exceed a total of ninety (90) days,~~ the department shall determine whether the violation has been abated.
 2. When enforcing this chapter, the city shall first pursue ~~criminal sanctions and shall pursue~~ civil ~~abatement or mitigation procedures when necessary to protect the health, safety and welfare of the residents of the city.~~
- ~~3G.~~ If the owner fails to act ~~the designated department shall send a notice setting a date and time for a hearing before the municipal court whereby the owner must appear and show cause why the violation has not been abated~~ or the violation has not been mitigated the city attorney may file a petition with the municipal court requesting an order requiring the owner to mitigate the violation and if the owner fails to comply that the city be authorized to enter the property and abate or mitigate the violation at the owners expense.
- ~~4H.~~ At ~~any show cause~~ the hearing so scheduled, both the property owner and ~~a representative of the department~~ the city shall have the opportunity to give evidence. After the hearing, the ~~city~~ judge shall determine if proper notification was made to the property owner and whether a violation exists.
- ~~5I.~~ If the ~~city~~ judge finds, by a preponderance of the evidence, that a violation does exist and that proper notification was

given, the property owner shall be ordered to abate the violation within a reasonable, specified time. In addition the judge may authorize the city to enter the property and abate the violation at the expense of the owner if the owner does not comply with the court ordered abatement.

~~6. If the property owner does not comply with the court ordered abatement the department shall send the owner written notification by certified mail, allowing ten (10) days to complete the abatement.~~

~~7. At the end of the ten (10) day period, if the property owner has still failed to comply, department representatives or contractors acting on the department's behalf may enter upon the owner's property for the specific purpose of abating, mitigating or shielding the violation, whichever the department deems appropriate.~~

~~8K. The city may assess the property owner for the actual costs of the abatement, mitigation or shielding.~~

~~9L. If the assessment is not paid, it shall become a lien on the property and may be enforced the same as nonpayment of property taxes. (Ord. 2737, 2-13-1995)~~

~~7-11-6: **JURISDICTION:** This chapter applies to property within the city limits.~~

~~7-11-7: **PENALTY:** Any person convicted of violating this chapter is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) and not exceeding five hundred dollars (\$500.00).~~

~~7-11-8: **EFFECTIVE DATE:** This chapter shall become effective thirty (30) days after its final passage and adoption by the city commission.~~

~~7-11-9: **COMPATIBILITY:** Nothing in this chapter or in section 7-5-2110, Montana Code Annotated, 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 section 7-5-2110, Montana Code Annotated.~~

~~7-11-10: **SEVERABILITY:** If any provision of this chapter is held to be invalid, such invalidity shall not affect other provisions which can be given effect without this invalid provision. To this end, the provisions of this chapter are severable.~~