

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3227

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

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

That Chapter 11 of Title 7 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: Abandoned and Junk Vehicles
- 7-11-45: Shielding Screening
- 7-11-56: Abatement And Mitigation
- ~~7-11-6: Jurisdiction~~
- ~~7-11-7: Penalty~~
- ~~7-11-8: Effective Date~~
- ~~7-11-9: Compatibility~~
- 7-11-107: 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 provide for the control of "community decay," caused by accumulation of rubble, debris, junk, or refuse, or buildings which have become dilapidated~~

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

through neglect or inattention, and establish procedures for enforcement.

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.~~

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

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. ~~No person shall dump, pile, or stack bricks, concrete blocks, waste wood, and similar material in public view unless said material is stacked in neat piles and all waste material 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 some other location which has been approved by the designated department within thirty (30) days. Accumulation, storing, dumping, or piling of rubble, debris, junk, refuse, or any other material unless the material is stacked in neat piles or screened from public 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~~

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

~~(30) days and the fill area must be adequately fenced to restrict access to the area.~~

- ~~DB.~~ No person shall storeing or accumulateing iron, of metal, machine parts, household appliances, barrels or other salvaged metal items in public view materials.
- ~~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. Storing or accumulating wrecked, ruined, or dismantled snowmobiles, four wheelers, camp trailers, pedal bikes, motorbikes, and boats, or their component parts.
- D. Any building that has become dilapidated through neglect or inattention to the extent the building endangers the public health, welfare, or safety, or any uncompleted building after its building permit has expired.
- E. Any condition that results in property being infested 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.

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

7-11-4: ABANDONED AND JUNK VEHICLES: The removal of abandoned vehicles parked on city streets shall be handled pursuant to subsection 8-11-1D of this code and Title 61, Chapter 12, Part 4 of Montana Code Annotated. Junk vehicles shall be handled pursuant to § 75-10-501, MCA. 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.

7-11-45: 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 do not result in any condition whereby the property becomes infested by rodents, vermin, or mosquitoes, or threatens or endangers the public health, welfare, and safety.

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 screening barrier unless approved by the designated department.

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

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

~~7-11-56: 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.~~

~~B. Inspection: Within thirty (30) ten (10) days of receiving a 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.~~

~~EB. 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 mitigation of the~~

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

violation and if the owner fails to comply with that order, the owner may be charged with contempt of court and the city will be authorized to enter the property to effect the mitigation of the violation at the owner's expense.

DC. 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~~ Community Development 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.

The ~~designated~~ Community Development department may accept such a plan and defer further proceedings under this chapter pending ~~abatement or~~ mitigation.

ED. ~~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~~ mitigated.

E. ~~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.~~

F. ~~3.~~ 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,

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

authorizing the city to enter the property and mitigate the violation at the owner's expense.

G. ~~4.~~ 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.

H. ~~5.~~ 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~~ mitigate the violation within a reasonable, specified time. In addition, the judge may authorize the city to enter the property and mitigate the violation at the expense of the owner if the owner does not comply with the court-ordered mitigation.

~~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.

I. ~~8.~~ The city may ~~assess the property owner for the actual costs of the abatement, mitigation or shielding~~ bill the property owner for the actual costs of mitigation performed by the city pursuant to court order. If the property owner fails to reimburse the city, the city may seek a default judgment from the Helena Municipal Court.

~~9.~~ 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.

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

~~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.~~

7-11-107: 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. (Ord. 2737, 2-13-1995; amd. Ord. _____, ___-__-2017)

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,

THIS 24th DAY OF APRIL, 2017.

**Final passage was amended no
signature required.**

ATTEST:

**Final passage was amended no
signature required.**

CLERK OF THE COMMISSION

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3227

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,
THIS 8th DAY OF MAY, 2017.

/S/ JAMES E. SMITH
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE COMMISSION