



# **Planning and Development Board Agenda**

**Thursday - February 28, 2019 4:00 PM  
City/County Complex Community Room**

## **CALL TO ORDER AND INTRODUCTIONS**

## **REVIEW AND APPROVAL OF MINUTES FROM PREVIOUS MEETING**

January 2019 Agenda  
**Suggested Action: Approve**  
[1.24.19 PB Minutes.docx](#)

## **DISCUSSION OF DRAFT DECAY ORDINANCE**

Draft Park County Decay Ordinance  
[Park County Community Decay Regulations\\_Draft.docx](#)

## **CITY/COUNTY PLANNING SUBCOMMITTEE UPDATE**

## **PROJECT UPDATES**

## **OLD BUSINESS**

## **NEW BUSINESS**

## **DISCUSSION OF NEXT AGENDA**

## **PUBLIC COMMENT**

## **ADJOURNMENT**

## Planning and Development Board Agenda Item Report

Meeting Date: February 28, 2019

Submitted by: Mike Inman

Submitting Department: PLANNING

Item Type: Minutes

Agenda Section:

---

**Subject:**

January 2019 Agenda

**Suggested Action:**

Approve

**Attachments:**

[1.24.19 PB Minutes.docx](#)

**Planning & Development Board**  
Community Room City/County Complex  
Livingston, MT  
4:00pm, January 24, 2019

**Attendance:** Planning Board Members Peter Fox, John Heidke, Mike Dailey, Frank Schroeder, Dave Haug, Frank O'Connor, Rich Baerg; Planning Staff Mike Inman, Lawson Moorman; Public Johnathan Hettinger, Wendy Riley.

**Call to Order and Introductions:** 4:00pm, Peter Fox called the meeting to order.

**Election of Officers:** *Schroeder made a motion to elect John Heidke as the vice chair of the Board, Haug seconded, motion passed unanimously. Schroeder made a motion to elect Peter Fox as the chair of the Board, Haug seconded, motion passed unanimously.*

**Public Comment:** None.

**Conflict of Interest:** None.

**Review and Approval of Minutes from Previous Meeting:** *Dailey made a motion to approve the minutes as submitted, Haug seconded, motion passed unanimously.*

**Discussion Surrounding Day/Time/Location of Meetings:** The Board discussed the merits of the 2018 Board schedule. The Board decided to mimic the 2018 schedule for 2019 with the exception of moving the Cooke City meeting to May and having it earlier in the day.

**Discussion of Draft Decay Ordinance:** The Board discussed the process of vetting the draft and receiving public input at the Board level. The Board and Inman discussed the potential ways the Board could consider different potential decay scenarios under the current draft. The Board determined that they would bring anonymous examples of what they thought a decay ordinance would cover to the next meeting and the Board and Staff could work out how the draft as written may or may not apply. The Board discussed the difficulties of determining what a 'valid business' might look like under the ordinance and the potential issues of neighbors attempting to use the ordinance for vindictive reasons. Fox requested that the procedure for follow-up on a complaint be added to the draft for the public's benefit.

**Review/Revise Board's Scope of Work Surrounding Goal 16 of the Park County Growth Policy:** O'Connor asked about the potential of assessing taxes on a local level to help offset rural road maintenance. Moorman informed the Board that there is actually a mechanism for this called a Rural Improvement District (RID), however, the Commission had stated previously they had no interest in enacting unsolicited RIDs. Inman explained the difficulty of a rural county associated with impact fees, the predominate factors being prohibitive costs and feasibility. The

Board and Staff discussed how road maintenance and concentrated development has been handled thus far in Park County.

Fox brought up housing in Park County and brought up the fact that a housing study was one of the action items for the Board outlined in the Growth Policy. Inman spoke to the roll of vacation rentals and who tracks vacation rentals in Montana. The Board discussed the pros and cons of vacation rentals in Park County. Inman informed the Board of the difficulty in requiring permits for vacation rentals at the County level because the lack of zoning compliance permits or building permits throughout the County. The Board asked Staff to put together some type of housing snapshot of the County to kick off a discussion for next month's meeting.

Fox brought up the need to update the Park County Atlas. Inman informed the Board that the atlas was just updated by the GIS department in its digital version. Fox discussed the importance of maintaining large tract agricultural land in Park County.

**Public Comment:** None.

**Project Updates:** Inman updated the Board that the new zoning district was approved.

**Old Business:** None.

**New Business:** None.

**Discussion of Next Agenda:** None

**Adjournment:** Fox adjourned the meeting at 5:33pm.

## Planning and Development Board Agenda Item Report

Meeting Date: February 28, 2019

Submitted by: Mike Inman

Submitting Department: PLANNING

Item Type: Discussion

Agenda Section:

---

**Subject:**

Draft Park County Decay Ordinance

**Suggested Action:**

**Attachments:**

[Park County Community Decay Regulations\\_Draft.docx](#)

## Park County Community Decay Regulations

### Section 1. Title

These regulations are known and may be cited as the Park County Community Decay Ordinance.

### Section 2. Statutory Authority

The authority of Park County to regulate Community Decay is granted under Montana Code Annotated (MCA) 7-5-2111.

### Section 3. Purpose

The purpose of these Regulations is to promote public health, safety, property value and general welfare of the residents of Park County.

### Section 4. Jurisdictional Area

This ordinance applies to the whole of Park County with the exception of incorporated municipalities or controlled by incorporated municipalities.

### Section 5. Severability

If any provision of this ordinance is declared invalid by any court or tribunal, the remaining provisions of this ordinance shall not be affected thereby.

### Section 6. Definitions

Abate- to eliminate or remove, or the elimination or removal of, all of the conditions that constitute a violation of these regulations.

Adjacent to- means directly abutting or sharing a border with.

Accumulate- to store, gather, collect, heap, or pile up.

Commission- Park County Board of County Commissioners.

Farming, Ranching, or Other Agricultural Operation- the use of land for agriculture or farming purposes, including but not limited to pasturage agricultural, dairying, grazing land, animal and poultry husbandry, horticulture, floriculture, viticulture, and forestry, and all uses customarily incidental to the normal operations thereof.

Community Decay- a Public Nuisance created by allowing rubble, debris, junk or refuse to Accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property. Community Decay as use in these regulation may not be construed or defined to apply to:

- i. Normal Farming, Ranching, or Other Agricultural Operations, or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations; or
- ii. Normal activities at a shooting range; or
- iii. Persons servicing, manufacturing, or processing materials, goods, or products on lots in public view, so long as the materials, goods, or products are used in the normal operation of the business and are neatly stacked or piles.

Department- the Park County Planning Department or other office designated by the Commission to respond to and enforce complaints of Community Decay.

Person- an individual, firm, partnership, company, association, corporation, or other entity, whether organized for profit or not.

Public Nuisance- is one that 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 Roadway- any public road right-of-way in Park County, Montana however created.

Public View- Any point up to six feet above the surface of the center of any public road.

Responsible Person- a Person who violates the Park County Community Decay Regulations.

Shielding- a barrier comprised of natural and/or artificial materials and used to conceal conditions contributing to Community Decay from Public View.

## Section 7. Prohibition

A Person violates these regulations by allowing or maintain conditions that contribute to Community Decay on, or on property Adjacent to, a Public Roadway within Park County, Montana.

Conditions that may contribute to Community Decay include, but are not limited to, any discarded substance, item, or material, such as cardboard, paper, pallets, tires, iron, or metal; demolition waste; construction or building material, such as bricks, concrete, or wood; junk vehicles or trailers; vehicles or machine parts; dead animals or animal parts; appliances; furniture; branches, logs, or yard trimmings; and any other similar materials, items, waste, parts, or substances.

## Section 8. Shielding

A Person does not violate these regulations by allowing or maintain conditions that contribute to Community Decay on, or on property Adjacent to, a Public Roadway if the conditions are concealed from Public View in accordance with the following standards:

- i. All plans for shielding must be approved by the Department prior to commencing constriction of the shielding.
- ii. Shielding must conform to the requirements of any zoning, planning, building, or restrictive covenant provisions applicable to the property.
- iii. Shielding must be of sufficient height so that no conditions contributing to Community Decay are within Public View.
- iv. Shielding must be maintained by the Responsible Person in a neat and orderly manner and must be replaced or repaired when deemed necessary by the Department.
- v. Artificial Shielding Standards: Shielding materials must be consistent on any one (1) side of a shielding fence. The boards of a fence may be reasonably spaced or slanted to reduce wind load. Chain link fences with standard fiberglass or similar inserts are acceptable.
- vi. Natural Shielding Standards: Trees or Shrubs used as Shielding must provide concealment from Public View at all times of the year. A berm may be used, provided the slopes of the berm are covered and graded smooth with not less than three inches of top soil and are seeded with a weed-free seed mix or an approved landscaping demonstrated in the Plan of Abatement.

## Section 9. Enforcement and Abatement

Upon receiving a signed, written complaint, the Department shall commence an investigation to determine if a violation exists. The Department may inspect the subject premises by any lawful means. If a violation of these regulations exists, the Department shall take appropriate action as provided herein to resolve the violation.

The Department shall notify the Responsible Person of the violation in writing. The notice of violation should state the following:

- i. The nature and location of the violation;
- ii. The actions needed to Abate the violation
- iii. The date Abatement must be completed in the absence of an approved Plan of Abatement;
- iv. That failure to comply with the notice within the specified, unless extended by an approved Plan of Abatement, enables the County to enter the property to Abate the violation; and
- v. That the County is authorized to assess the Responsible Person for the actual costs of the Abatement, and nonpayment of the assessment becomes a lien upon the property enforceable in the same manner as the nonpayment of property taxes.

Within thirty (30) calendar days from the receipt of the notice of violation, the Responsible Person may submit a written Plan of Abatement to the Department. The proposed Plan of Abatement must include, at a minimum:

- i. A complete description of the Abatement proposed;
- ii. The date for commencement of the Abatement;
- iii. Any reason why the Abatement cannot be completed within thirty (30) days from the receipt of the notice of violation; and
- iv. The date for completion of the Abatement.

The Department may accept or reject the Plan of Abatement, accept the Plan with modifications, or request additional information before making a final decision. The Department shall notify the Responsible Person in writing of its final decision.

The Responsible Person shall have thirty (30) calendar days from the receipt of the notice of violation to Abate the violation or to have a Plan of Abatement, approved by the Department, in place.

If the Responsible Person fails to Abate the conditions contributing to Community Decay within thirty (30) calendar days from receipt of the notice of violation or the time period specified in the approved Plan of Abatement, the Department shall notify the Responsible Person in writing of the failure to Abate the violation.

If the Responsible Person fails to completely Abate the violation within fifteen (15) calendar days of the notice described in subsection (F), the Department or its agents may enter upon the subject property to assess the extent of the violation. In addition, the Commission or its agents may Abate the violation and may assess the Responsible Person for the actual cost of the Abatement. Nonpayment of such as assessment becomes a lien upon the property and is enforceable in the same manner as a nonpayment of taxes.

Notwithstanding any enforcement action taken pursuant to this section, The Commission may bring any legal or equitable action in the name of Park County to enforce this Ordinance.

#### Section 10. Appeals

An alleged violator may appeal a final decision of the Department in writing to the Commission within fifteen (15) calendar days of the final decision.

The Commission shall hold a hearing regarding the appeal and shall, in writing, affirm, modify, or withdraw the Department's decision within thirty (30) calendar days after the hearing.