

## **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 maintaining 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 maintaining 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 in writing the Responsible Person of the violation. 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 an 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.