

ORDINANCE NO. 2021-01

AN ORDINANCE ADOPTING TITLE 8, CHAPTER 8 SECTION .09, OF THE TOWN OF BIG SANDY CODE TO PROHIBIT DISABLED OR JUNK VEHICLE OR JUNK TO BE IN VIEW OF THE PUBLIC FROM ANY PUBLIC RIGHT OF WAY.

BE IT ORDAINED, by the Town Council of the Town of Big Sandy, Montana, that Title 8, Chapter 8, section 9, of the Town codes of the Town of Big Sandy, Montana, is hereby amended to read as follows:

BIG SANDY MUNICIPAL CODE

Chapter 8.09

Community Decay

Section:

- 8.09.010 Definitions
- 8.08.020 Nuisance Declared
- 8.09.030 Administration, enforcement, and civil penalty
- 8.09.040 Community Decay standards
- 8.09.050 Junk vehicle nuisance
- 8.09.060 Shielding

8.09.10 Definitions. As used in this chapter, unless the context otherwise indicates:

- A. "Community Decay" means rubble, debris, junk or refuse that has accumulated, resulting in conditions that are injurious to health, indecent, offensive to the senses or obstructive to the free use of property so as to interfere with the comfortable enjoyment of life or property.
- B. "Junk vehicle" means any motor vehicle, including component parts, that is not lawfully and validly licensed and remains inoperative and incapable of being driven. This includes motor vehicles with permanent registration that otherwise meet the criteria. (Section 75-10-501(6), MCA).
- C. "Person" means an individual, firm, partnership, company, association, corporation, or organization of any kind.
- D. "Public view" is any area that can be seen from any point six (6) feet above the surface of any public street, road, or alley.

- E. "Enclosed areas," means any area inaccessible or not visible from six (6) feet above the surface of the center of any public street, road, or alley.
- F. "Junk" means any metal, glass, paper, rags, wood, machinery parts, appliances, or equipment parts, cloth or other waste or discarded material of any nature or substance whatsoever, or any scrap or salvage materials.
- G. "Property" means any real property within the Town or any Town property within or without the corporate limits which is not a street or highway.
- H. "Street, alley, or highway" means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for the purpose of vehicle travel.

8.09.020 Nuisance Declared.

Any person, firm, corporation, or other entity (hereinafter "owner") shall be guilty of maintaining a public nuisance if the owner allows their property or vehicle to violate the standards of 8.09.040 or 8.09.050 of this Ordinance. Any such violation shall be deemed a public offence, punishable as provided in 8.09.030(E) of this Ordinance.

8.09.030 Administration, enforcement, and civil penalty

- A. Reporting and Complaints. Any citizen is entitled to make a written complaint to the Town Clerk. Such complaints shall include, whenever possible:
 - 1. The nature of the nuisance and/or Community Decay;
 - 2. The location of the nuisance, including the address;
 - 3. The name of the owner, occupant, or manager of the premises where the nuisance and/or Community Decay is located;
 - 4. The duration of the nuisance and/or Community Decay; and
 - 5. The name and address of the complainant.
- B. Duties for Enforcement. The Town Mayor and/or designees shall be responsible for enforcing this Ordinance and instituting appropriate action to ensure and correct violations.

Where a complaint has been made or where the Town believes a violation of this Ordinance exists, the Town Mayor or designee shall provide:

1. An initial notice of a pending potential violation to the owner of the real property upon which the violation has occurred and/or, when applicable, the owner of the junk vehicle. This notice shall list the item(s) which may be a violation and provide a copy of this Ordinance.
2. Written notice of the violation to the owner of the real property upon which the violation has occurred and/or, when applicable, the owner of the junk vehicle.

If the owner fails to correct the violation to the satisfaction of the Town Mayor and/or designee in the timeframe provided, then the Town Mayor or designee shall cause the violation to be remedied as provided in this Ordinance.

C. Notice Requirements. The owner will be sent written notice of the violation which shall provide at minimum:

1. Name, address, and owner of the real property where violation has occurred.
2. Type of violation that has occurred.
3. Deadline for correcting the violation.
4. Result of failing to meet the deadline.
5. Procedure for appealing the violation.

D. Notice Procedure. Written notice will be served in the following manner:

1. In determining the name and mailing address, any records available to the Town may be used. The Town Mayor or Designee shall then serve written notice as provided herein.
2. If the owner occupies the real property where the violation has occurred, notice may be made personally or mailed to such owner's last known address by first class United States mail.
3. If the owner does not occupy the real property where the violation has occurred, notice will be mailed to such owner's last known address by first class United States mail.

4. Any notice is deemed complete by deposit into the United States Postal Service of a return receipt requested mailing to said address.

E. Penalties. Violations of this Ordinance shall be declared a public nuisance and each day the civil infraction continues is deemed to be a separate and punishable civil offense. Violations shall be punishable by a civil penalty not to exceed Three Hundred Dollars (\$300.00). If the violation is an ongoing offense, the violation will be punishable by an additional civil penalty, not to exceed Fifty Dollars (\$50.00) per day for each additional day the violation continues.

F. Appeal Process.

1. The deadline to correct the violation may be suspended if the owner presents a plan for addressing the violation to the Town Council. The owner may contact the Town Clerk and request to be added to the agenda of the next Town Council meeting.
2. In the event the owner disagrees with a notice of violation, the owner may appeal the violation notice to the Town Council within ten (10) days of the date of the written notice. Such appeal must be in writing and include specific reasons why the violation notice is not accurate or why the owner is unable to comply with the provisions of this Ordinance. For good cause, or in cases of extreme hardship, the Town Council may make a determination that the provisions of this Ordinance should not apply to a particular property. The decision of the Town Council is final, subject only to judicial review.

8.09.040 Community Decay Standards

It shall be a violation of this Chapter to allow any of the following conditions to exist within public view on any property in the Town:

- A. The dumping, piling or stacking of bricks, blocks, waste wood building materials or similar materials on any property except when such materials are being used for construction not to exceed a one hundred twenty (120) day period;
- B. The storage or accumulation of cardboard boxes, broken packing boxes, paper or similar items;

- C. The piling, dumping or placement of any dirt, demolition waste, including wood, bricks, concrete, or similar materials on any property unless such material is to be utilized for fill. When used as fill, all material shall be covered with clean earth fill once every ten (10) days;
- D. The storage or accumulation of iron, metal, vehicle or machine parts, junk vehicles, wrecked vehicles, tires, household appliances or other salvaged materials;
- E. The storage and accumulation of any rubble, debris, junk, or refuse.
- F. This Section shall not apply to vehicles enclosed in a building or covered by a cover specifically designed for covering vehicles (no more than two vehicles covered per residential property) or to any vehicle held in connection with a lawfully operated business enterprise or to any vehicle retained for antique collection purposes pursuant to Section 61-3-411, MCA.
- G. This Section shall not be construed to prevent people from repairing their own vehicles on private property, even when exposed to public view, provided said work is completed within ninety (90) days.

08.09.050 Junk vehicle nuisance

- A. Nuisance Declared. All Junk Vehicles, whether on public property or on private property in public view are declared to be a nuisance.
- B. Vehicle Maintenance. Tearing down, stripping, junking, or storage of vehicles outside a building or acceptable shielding within any area of the corporate Town limits is prohibited. However, this Section shall not be construed to prevent people from repairing their own vehicles on private property, even when exposed to public view, provided said work is completed within ninety (90) days.
- C. Abatement.
 - 1. Procedure.
 - a. Notice. In addition to the notice required by 08.09.20, if the owner of the vehicle and/or lien holder is not the same person as the owner of the real property upon which the violation is occurring, the Town Mayor or designee shall make a reasonable attempt to locate the owner of vehicle and/or lien

holder. The address currently maintained by the Montana Department of Motor Vehicle Registration, or the equivalent agency in any other state or country, shall be deemed the address upon which notice shall be made. Any notice is deemed complete by deposit into the United States Postal Service of a return receipt requested mailing to said address.

b. Consent. If the owner of the junk vehicle consents to abatement, such person shall sign a written consent to abate the vehicle and provide to the Town a copy of the motor vehicle registration for said vehicle, if available, or a bill of sale. The signing of such consent shall in no way relieve the owner of paying any outstanding lien(s) and the costs associated with the towing, disposal of said vehicle and related administrative costs to be set by resolution.

If the junk vehicle is on private property and the owner of the junk vehicle is not the same as the owner of the real property, the Town will attempt to acquire written consent of the private property owner as well. If consent of both parties cannot be obtained, then the Town shall pursue legal remedies through the Court having proper jurisdiction and venue to abate nuisances.

c. Involuntary Abatement. If the owner does not consent to said removal, then the Town shall pursue legal remedies through the Court having proper jurisdiction and venue to abate nuisances.

2. Public Property. If the Junk Vehicle is on public property and is not disposed of within ten (10) days of mailing of the violation notice as provided hereinafter from the Town of Big Sandy, the Chouteau County Sheriff's office is authorized to remove and dispose of said vehicle. The owner of said vehicle shall be responsible for all costs and expenses for towing, storage, and administrative costs.

If an owner of a Junk Vehicle on public property cannot be determined, the Chouteau County Sherriff's office is immediately authorized to remove and dispose of said vehicle.

3. Private Property. If the Junk Vehicle is on private property and is not shielded or disposed of within thirty (30) days of receipt of notice as provided for herein, the Town of Big Sandy shall commence an action to abate said nuisance. The owner of said vehicle shall be responsible for all costs and expenses for towing, storage, administrative, and Court costs.

8.09.060 Shielding

The open storage, accumulations, or presence of items or materials that would be considered a public nuisance under Sections 8.09.040 and 8.09.050 shall be lawful if such materials and vehicles are shielded from public view in accordance with the following standards:

- A. All shielding barriers must conform to all local zoning, planning, building, and protective covenant requirements.
- B. All shielding barriers shall be of sufficient height and density to conceal any violation on the premises from public view.
- C. Any man-made shielding barriers must be constructed of sound building materials. The barriers must be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.
- D. Shielding with shrubs and trees must provide a similar degree of shielding at all times of the year.
- E. No more than one type of shielding materials shall be used on any one side of the property.
- F. Plastics, tarps, or other materials placed over junk vehicles are not acceptable shielding. Car covers specifically designed to attach tightly to and cover motor vehicles are acceptable for shielding. Up to two junk vehicles may be shielded by car covers at a single residential location. Car covers must be maintained and secured at all times, and cannot be ripped, torn, or blowing loose in the wind.

PASSED by the Town Council of the Town of Big Sandy on
the ___day of _____, 2022.

APPROVED by the Mayor of the Town of Big Sandy on
the ___day of _____, 2022.

Shaud Schwarzbach, Mayor

ATTEST:

Town Clerk