Chapter 8.16 Public Nuisances

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8.16.030 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.

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8.16.040 Definitions

For purposes of this chapter, the following definitions apply:

**COMMUNITY DECAY:** Any public nuisance created by allowing rubble, debris, junk, refuse, grey water, sewage, 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 operations of the business are neatly stacked or piled. This definition does not include normal residential maintenance or landscaping projects.

**COMPONENT PART:** Any identifiable part of a discarded, ruined, wrecked, or dismantled motor vehicle, including, but not limited to, fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.

**DEPARTMENT:** The Director of Operations or designated city representative to enforce this chapter.

**JUNK VEHICLE:** A discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully and validly licensed and remains inoperative or incapable of being driven.

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

**PUBLIC NUISANCE:** Any area visible 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 (6) feet above the surface of the center of the center of a public roadway or right-of-way.

**SHIELDING:** Any natural barriers, fencing, or other manmade barriers used to conceal a facility from public view. All shielding barriers must conform with all local zoning, planning, building, and protective covenant requirements. All shielding barriers must be of sufficient height and density to conceal any violation on the premises from public view. This definition is not intended to require that permanent buildings, utility poles, or other similar structures be shielding.

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8.16.050 Prohibitions

It is a violation of this chapter to own or maintain any public nuisance or community decay as follows:

1. Bricks, concrete blocks, waste wood, and similar material must not be dumped, piled, or stacked 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 approved location within fourteen (14) days.
2. Cardboard boxes, broken packing boxes, paper, broken shipping pallets, rubble, debris, junk, refuse, dead animals or animal parts, or other similar items must not be stored or accumulated in public view.
3. Dirt, demolition waste, including work waste, bricks, concrete, used road blacktop, or other similar materials must not be piled, dumped, or deposited 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 blacktop, as allowed by local, state and federal regulations. All such material must be completely covered with clean fill material within thirty (30) days. Iron, metal, machine parts, household appliances, barrels, component parts, or other salvage metal items must not be stored or accumulated in public view.
4. Any other rubble, debris, grey water, sewage, junk, or refuse that, upon investigation, is deemed to be a “public nuisance” as defined in this chapter must not be accumulated or stored
5. Any person possessing one or more junk vehicles, regardless of ownership, must shield the vehicles from public view or remove the vehicles to a licensed motor vehicle wrecking facility or to a licensed motor vehicle graveyard, as defined by § 75-10-501, Montana Code Annotated.
6. Abandoned or junk vehicles are to be handled pursuant to §8.16.040 and §8.16.070 of this code, and abandoned/junk vehicles may be also handled pursuant to §75-10-501 *et. seq.*, Montana Code Annotated.

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8.16.060 Shielding

The maintenance of material that would be considered a public nuisance is lawful under this chapter if such material is shielded from public view in accordance with the following standards:

1. Any shielding must conform to all local zoning, planning, building code, and protective covenant requirements applicable to the property and must be of sufficient height and density that none of the nuisance material on the premises is visible to public view.
2. Trees, hedges, and shrubs are preferred as shielding.
3. No more than one non-vegetative shielding material is to be used on any one side of a shielding barrier unless otherwise approved.
4. All materials must comply with all local, state, and federal regulations, including the City of Dillon fire code.

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8.16.070 Abatement and Mitigation

The abatement or mitigation of conditions which constitute a public nuisance prohibited by this chapter must 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 must be mitigated in accordance with the provisions of this section.

1. **Initiation:** Abatement or mitigation must be initiated by the City of Dillon.
2. **Notice:** If it is determined that there is a violation of this chapter, the City of Dillon must notify the owner of the property of the violation, in writing and by personal service thereof or by certified mail, and order the abatement or mitigation of the violation or the submission of a plan for abatement or mitigation within fourteen (14) days. The notice of violation must:
	1. Include a statement specifically describing the violation;
	2. Specify that the owner of the property has fourteen (14) days from receipt of such notice to bring the property into compliance or to submit a written plan to comply with this Chapter by means of removal, shielding, or mitigation of the conditions; and
	3. Advise the owner of the property that if the violation is not abated or mitigated, the Director of Operations, Dillon Police Department, or other designated city representative (each referred to herein as “City Representative”) may undertake further actions, including but not limited to, citation, abatement and/or mitigation and assess all related costs thereof to the owner of the property.
3. **Plan of Abatement Or Mitigation:** The owner of the property may, within fourteen (14) days after receipt of a notice of violation, submit a plan of abatement or mitigation to the City of Dillon which must include:
	1. The type of abatement, shield, or mitigation to be undertaken;
	2. The date for commencement of action; and
	3. The date for completion of the abatement or mitigation which shall not exceed a total of sixty (60) days from the commencement date.

The City of Dillon may accept such a plan and defer further proceedings under this chapter pending abatement or mitigation. Additionally, the City of Dillon may reject said plan and allow for submission of an amended plan within seven (7) days of notice that the initial plan was rejected. Should the City Representative determine that the second plan fails to adequately address the nuisance, the owner of the property shall either: immediately abate and/or mitigate the nuisance to the satisfaction of the City Representative or be subject to the enforcement provisions of this Chapter.

1. **Enforcement:**
	1. After thirty (30) days from a notice of violation, or the date agreed to by the property owner and the Director of Operations or City Representative, which may not exceed a total of sixty (60) days, the Director of Operations or designated City Representative must determine whether the violation has been abated and provide notice of the same to the property owner.
	2. If the owner has not adequately addressed the violations within the time frame set forth in subsection DMC § 8.16.070(D)(1), the Director of Operations or designated City Representative may at any time alert the Dillon Police Department for issuance of a citation under the provisions of this chapter and under Montana Code Annotated §45-8-111.
	3. Upon a conviction in Dillon City Court, or any Court of proper jurisdiction, under this Chapter or under Montana Code Annotated §45-8-111, and the final adjudication of the matter (i.e., appeals to District Court, Entry of Judgment), the Director of Operations or designated City Representative shall initiate abatement of the nuisance.
	4. The Director of Operations or designated City Representative must record the name of the property owner, the legal description, and street address of the lot(s), the exact dates and costs of all abatement action done in accordance with this section including, but not limited to, the costs of private contractors hired for such purpose and administrative costs.
	5. Each person who fails to abate the violations as required herein and thus requires the City to perform the abatement work in accordance with this section must be liable to the City for the cost of such abatement work plus a civil penalty of up to five hundred (500) dollars or ten (10) percent of such costs, whichever is greater.
	6. The City of Dillon must give the property owner(s) written notice of the amount owed to the City as soon as practicable following the completion of the abatement proceedings. The payment of such amount may be enforced through suit for collection or by levying an assessment on the property or both.
	7. In the event of assessment, the City Council must annually adopt a resolution levying an assessment and tax against each lot or parcel of land ordered abated by the City of Dillon in accordance with the provisions of this chapter. All assessments levied are to be charged simple interest at the rate of ten (10) percent per year from the date the abatement work is performed until the assessment is fully paid and satisfied.

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8.16.080 Appeal

An owner, manager, or lessee of the property assessed in accordance with DMC § 8.16.070 of this chapter has the right to appeal the assessment to the City Council. Property owners wishing to appeal the assessment must submit their appeal to the Director of Operations or designated City Representative within thirty (30) days of the date of the first notice required in DMC § 8.16.070(D)(6) of this chapter for the assessment to be considered by the City Council at a regular meeting. This provision does not apply to any proceeding that may be initiated in City Court against an owner, manager, or lessee of the property.

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8.16.090 Jurisdiction

This chapter applies to property within the city limits of Dillon, Montana.

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8.16.100 Penalty

Any person who violates any provision of this chapter is subject to the penalties set forth in this Title for a civil violation. Each day such violation is committed or permitted to continue constitutes a separate offense and may be punishable as such.

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8.16.110 Compatibility

Nothing in this chapter or in MCA § 7-5-2110 may be construed to abrogate or affect the provisions of any lawful ordinance, regulation, regulation, or resolution that is more restrictive than the provisions of this chapter or MCA § 7-5-2110.

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