

**AN ORDINANCE TO CONTROL LITTER and COMMUNITY DECAY WITHIN  
CARBON COUNTY;  
AND ESTABLISHING PROCEDURES FOR ITS ENFORCEMENT**

WHEREAS, MCA Section 7-5-2109 and 7-5-2111, authorizes counties to adopt an ordinance for the control of litter and community decay within the county; and

WHEREAS, the Carbon County Commissioners have determined there is a need to control litter and community decay in Carbon County;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF CARBON COUNTY, STATE OF MONTANA:

Definitions

1. (a) "Abatement" means to repair, replace, remove, destroy, or shield by such means, in such a manner and to such an extent that is determined necessary in the interest of the health, safety, and general welfare of the affected community.
- (b) "Community Decay" means a public nuisance created by allowing inorganic rubble, debris, junk, junk vehicles, 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.
- (c) "Junk Vehicle" means a motor vehicle, including component parts, that are discarded, ruined, wrecked, or dismantled, that is not lawfully and validly licensed, and that remains inoperative or incapable of being driven. If a vehicle is permanently registered under 61-3-562 and meets the other criteria for a junk vehicle under subsection, the vehicle is a junk vehicle.
- (d) "Litter" means any quantity of uncontained solid waste which may be classified as trash, debris, rubbish, refuse, garbage, junk vehicles, or junk by the Sheriff that is outside of a container. Litter does not include used farm machinery or equipment.
- (e) "Person" means an individual, firm, partnership, company, association, corporation, city or town, or any other entity, whether organized for profit or not.
- (f) "Shielding" means the construction or use of a sight-obscuring fence or other man-made barriers (made of sound building materials) or natural barriers to conceal items from public view.
- (g) "Violation" means littering by any person on any county road or other land, public or private, within the County or allowing uncontained litter or conditions constituting community decay on private property visible from a public road. Each day the violation exists is a separately punishable offense.

### Duties of private property owners

It shall be unlawful for an owner, lessee or occupant of private property to allow the accumulation of uncontained litter constituting community decay on public or private property. It shall also be unlawful for any person to scatter litter on public property, including county roads. This prohibition applies to loose litter as well as litter that is trapped at fences, wall bases and other lodging points.

### Powers and Duties of the Sheriff

2. The Sheriff has the following powers and authority:
  - (a) The power to inspect when there has been a complaint by a member of the public that litter a condition of community decay exists, or when, in the course of normal operations, a potential violation of this ordinance is observed by the Sheriff or Deputy Sheriff.
  - (b) The power to determine whether or not this Ordinance applies after an inspection of the property or area.
  - (c) The duty to serve a written Notice to Appear and Complaint on the person who owns, leases or occupies the property on which conditions of community decay exists or who scatters litter on public property, and the duty to file the Notice and Complaint in Justice Court.
  - (d) The duty to provide the County Attorney with sufficient documentation to enable prosecution of the violation of this ordinance as a misdemeanor.

### Penalty

3.
  - (a) Any violation of littering under the provisions of this ordinance shall constitute a misdemeanor punishable by a fine not to exceed \$200.00 per violation. Violation of this ordinance may not be punishable by imprisonment. Each day the violation exists is a separately punishable offense.
  - (b) Upon conviction for a violation of this ordinance, an offender shall be required by the court to abate the conditions constituting community decay. Failure to abate the conditions of community decay may constitute separate violations of this ordinance, contempt of court, or the cost of abatement by the Sheriff's Office.
  - (c) In the event the violator fails to comply with the abatement order of the court, Sheriff's Office employees and/or their agents or designees may enter upon the owner's property

with the specific purpose of abating or shielding the violation, whichever the Sheriff's Deputy deems appropriate:

- (i) The County shall assess the property owner/user for the actual costs of the abatement.
- (ii) If the assessment is not paid, the actual cost of the abatement shall become a lien upon the property and enforced as is nonpayment of property taxes.

#### Enforcement

- 4. This Ordinance shall be complaint driven. The complaint shall be in writing and the complainant shall be required to identify themselves and give their address before a complaint is investigated.

#### Abatement

- 5. The abatement of conditions which constitute a public nuisance prohibited by this ordinance shall be accomplished under the provision of this section.
  - (a) The Carbon County Sheriff's Office will be responsible for initiating abatement proceedings.
  - (b) When the Sheriff's Office receives a complaint that a condition of community decay exists, the Sheriff's Office or an agent thereof, shall inspect the property alleged to be in violation of this ordinance to determine whether there is a violation of this ordinance.
  - (c) If the Sheriff's Office determines that there is a violation of this ordinance, the Sheriff's Office shall notify the owner of the property in writing of the violation by certified mail or personal service and order its abatement within (30) days. The notice of violation shall:
    - (i) include a statement specifically describing the violation;
    - (ii) specify that the owner has thirty (30) days from receipt of such notice to bring the property into compliance with this ordinance by means of removal or shielding of the conditions; and
    - (iii) advise the owner that if the violation is not abated, the County may undertake abatement and assess the costs of that abatement to the owner.
  - (d) In the event the alleged violator fails to bring the property into compliance and abate the conditions of community decay, the Sheriff's Office shall refer the matter to the County Attorney for prosecution.

#### Jurisdictional Area

- 6. This ordinance applies to the whole of Carbon County with the exception of incorporated municipalities that have ordinance making powers.

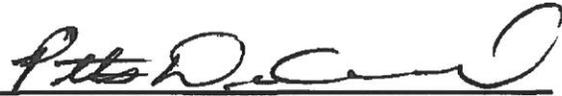
Effective Date

7. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the Carbon County Commission. Upon this ordinance becoming effective, the prior Litter Ordinance dated April 22, 2010 shall be repealed.

Severability

8. 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.

PASSED on first reading this 11<sup>th</sup> day of October 2018, by the Board of County Commissioners, Carbon County, State of Montana.

  
Robert 'Pits' DeArmond, Commissioner Dist. #1

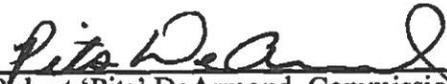
  
Scott Blain, Commissioner Dist. #2

  
Bill E. Bullock, Commissioner Dist. #3

Attest

  
Marcia Henigman, Carbon County Clerk and Recorder

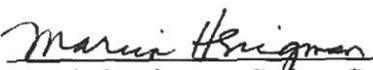
PASSED on second and final reading this 15<sup>th</sup> day of October 2018, by the Board of County Commissioners, Carbon County, State of Montana.

  
Robert 'Pits' DeArmond, Commissioner Dist. #1

  
Scott Blain, Commissioner Dist. #2

  
Bill E. Bullock, Commissioner Dist. #3

**Attest**

  
Marcia Henigman, Carbon County Clerk and Recorder

*Munic File #7867*

**Doc # 375155 Fee: \$0.00**

Ordinance

Marcia Henigman, Clerk & Recorder, Carbon County, MT

Recorded 10/25/2018 At 4:19 PM

By *Marcia Henigman*