

COUNCIL BILL NO. 17-2

ORDINANCE NO. 17-2

1 AN ORDINANCE REPEALING CHAPTER 8.06 OF THE BUTTE-SILVER BOW
2 MUNICIPAL CODE (BSB-MC) ENTITLED "COMMUNITY DECAY", AND REPLACING
3 IT WITH A NEW CHAPTER 8.06 TO BE ENTITLED "COMMUNITY ENRICHMENT
4 STANDARDS" AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

5 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF
6 THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA:

7 SECTION 1: 8.06.010 Purpose. The purpose of this chapter is
8 to establish and enforce community enrichment
9 standards within the City-County of Butte-Silver
10 Bow, Montana ("City-County") which will aid in the
11 promotion and the protection of the public's
12 health, safety and general welfare.

13 SECTION 2: 8.06.020 Definitions
14 The following definitions shall apply unless the
15 context clearly indicates or requires a different
16 meaning.

17 A. "Administrative Citation" means a citation
18 issued by a Code Enforcement Officer of the City
19 County for violations of this chapter.

- 1 B. "City-County" means the local government of the
2 City and County of Butte-Silver Bow, Montana and
3 includes all of its departments, boards,
4 commissions, and agencies.
- 5 C. "Civil Penalty" means the administrative civil
6 penalty assessed through an Administrative
7 Citation and all costs incurred by the City-
8 County from the first discovery of the violations
9 until compliance is achieved. It includes, but
10 is not limited to, staff time and expense in
11 inspecting the property, sending notices,
12 preparing reports and files.
- 13 D. "Code Enforcement Officer" means an employee
14 of the City-County Community Enrichment
15 Department, the City County Health Department,
16 the City-County Fire Department, the City-County
17 Law Enforcement Department, the City County
18 Building Code Department or any other City County
19 Department, officer or employee appointed by the
20 Chief Executive to enforce the regulations set
21 forth herein, all of which are designated to

1 enforce this chapter.

2 E. "Community Decay condition" means a public
3 nuisance created by allowing Debris, junk
4 (including Junk Vehicles) or refuse (including
5 buildings which have been dilapidated through
6 neglect or inattention or damaged by fire) and/or
7 are injurious to health, indecent, offensive to
8 the senses or obstruct the free use of property
9 so as to interfere with the comfortable enjoyment
10 of life or property.

11 F. COUNCIL of Commissioners means the members
12 elected to serve as the governing body of the
13 City and County of Butte-Silver Bow.

14 G. Debris shall mean including but not limited to
15 garbage, paper, rubbish, furniture, appliances,
16 tires, yard waste, junk, plastic, wood, scrap,
17 metal, parts, cardboard, concrete, bricks,
18 waste, demolition waste, refuse and litter.

19 H. "Junk Vehicle" for the purposes of this chapter
20 means:

21 (1) any motor vehicle that does not have lawful

1 plate or registration.

2 (2) any motor vehicle that is left unattended
3 on any public street, alley, public place or
4 parking lot within the jurisdictional boundary
5 of the city-county for longer than twenty-four
6 hours without notifying the parking commission
7 and making arrangements for the parking and
8 moving of such motor vehicle.

9 (3) any motor vehicle that has been rendered
10 unsightly or hazardous by collision, fire or
11 mechanical compression.

12 (4) any motor vehicle from which principal parts
13 or components have been removed, rendering the
14 unit unable to move in a safe manner under its
15 own power.

16 (5) Inoperable motor vehicle shall mean any
17 motor vehicle in which the primary power plant
18 or motive force is nonfunctional.

19 (6) Junk Vehicles-Non-Motorized vehicle shall
20 mean inoperable vehicles including but not
21 limited to boats, trailers, bikes, and 4-

1 wheelers.

2 I. "Owner" means those shown to be the owner or
3 owners on the records of the Butte-Silver Bow
4 Clerk and Recorders, the Assessors, other
5 person, firm or corporation in control of the
6 freehold of the premises or lessor stated herein.
7 Any person with a shared interest in the property
8 may have a joint and several obligation for
9 compliance with the provisions of this chapter.

10 J. "Private Property" means any real or personal
11 property within the jurisdictional limits which
12 is not public property.

13 K. "Public Property" means any street, alley, or
14 highway, which shall include the entire width
15 between the boundary lines of every way publicly
16 used, maintained for purposes of vehicular
17 travel and shall also mean any other publically
18 owned property or facility.

19 L. "Responsible Party" means: (1) The person or
20 persons who own the property where the violation
21 exists; (2) The person or persons in charge of

1 the premises where the violation exists; (3) The
2 person or persons using the premises where the
3 violation exists; (4) If any of the above is a
4 minor, a parent or guardian of the minor shall
5 be the responsible party; and (5) If any of the
6 above is a business entity the manager or on-
7 site supervisor where the violation exists.

8 SECTION 3: 8.06.030 COMMUNITY ENRICHMENT STANDARDS. It is a
9 violation of this chapter to allow the presence of
10 Community Decay condition(s) to exist on any land
11 or and Private or Public property within the
12 jurisdictional area of the City and County of Butte-
13 Silver Bow.

14
15 SECTION 4: 8.06.040 Violations, Inspections, and Enforcement.

16 A. Violations. It shall be unlawful for any Owner
17 or Responsible Party as defined in this chapter, to
18 violate any of the provisions of this chapter by
19 allowing the presence of any Community Decay
20 Conditions on his/her property.

21 1. If a complaint is made or the Code

1 Enforcement Officer has reason to believe that any
2 Community Decay Condition(s) are present on the
3 Owners' or Responsible Parties' property, any Code
4 Enforcement Officer shall notify the Owner or
5 Responsible Party by certified mail of the
6 complaint and may request permission to enter upon
7 the property to conduct an inspection.

8 a. If the Owner or Responsible Party has an
9 agent for service on file with the secretary of
10 state, the notice must be given by certified mail
11 to the registered agent.

12 B. Inspections. If the Code Enforcement Officer
13 determines an inspection is warranted and the Owner
14 or Responsible Party agree to an inspection, the
15 Code Enforcement Officer and the Owner or
16 Responsible Party shall inspect the property at an
17 agreed upon time. The Code Enforcement Officer may
18 seek a court order pursuant to § 7-1-4124(16) to
19 enter and inspect the property to determine if a
20 Community Decay Violation exists if:

21 1. Within ten (10) days of sending the

1 certified letter to the address on the tax records
2 or to the registered agent for service, the Code
3 enforcement Officer is unable to determine the
4 Owner or Responsible Party; or

5 2. The letter cannot be delivered because the
6 Owner or Responsible Party refuses to sign the
7 receipt or does not reside on the property or the
8 Owner or Responsible Party refuses to allow an
9 inspection.

10 C. Enforcement of Community Decay Conditions. If
11 the Code Enforcement Officer finds Community Decay
12 condition(s) on the property during the inspection,
13 the Code Enforcement Officer shall:

14 1. Seek the Owner or Responsible Party's
15 voluntary compliance with the provisions of this
16 chapter. The Owner or Responsible Party will be
17 deemed to have voluntarily complied with this part
18 if the Owner or Responsible Party submits within
19 ten (10) days of the receipt of a certified letter
20 and the Code Enforcement Officer accepts a written
21 compliance proposal to undertake specific

1 compliance measures and the Owner or Responsible
2 Party fulfills the terms of the proposal. The
3 proposal must require that the Owner or Responsible
4 Party notify the Code Enforcement Officer as
5 measures for compliance are taken.

6 2. All correspondence with an Owner or
7 Responsible Party concerning notifications of
8 Community Decay conditions, and notifications of
9 noncompliance, must be made on uniform notification
10 form(s) provided by the Community Enrichment
11 Department. The Administrative Citation shall
12 include:

13 a. the legal description of the property; and
14 the address of the property, if available;

15 b. a description of the Community Decay
16 condition(s) existing on the property

17 c. an advisement that the Owner or
18 Responsible Party has ten days after receiving the
19 notice to contact the Code Enforcement Officer at
20 the address and phone number provided in the notice;

21 d. an advisement that the Owner or

1 Responsible Party shall submit a proposal to
2 address the Community Decay Condition(s) and a time
3 frame for; and

4 e. Specify actions the Code Enforcement
5 Officer may take if the Owner or Responsible Party
6 fails to abate the Community Decay condition(s)
7 within the allotted timeframe.

8 f. Specify the other penalties that may be
9 assessed against the person to whom the notice of
10 violation is directed as set forth in this chapter.

11 g. Provide notice of the right to appeal as
12 set forth in Section 8.06.080 of this chapter.

13 4. If the Code Enforcement Officer is unable
14 to obtain voluntary compliance within ten days of
15 the receipt of Notice provided for in this section,
16 or within ten days of an inspection, or the owner
17 has failed to comply with the agreed written
18 compliance proposed. The Code Enforcement Officer
19 shall notify the Owner or Responsible Party by
20 certified mail with an Administrative Citation
21 indicating that Community Decay conditions exist on

1 the property and that the Owner or Responsible Party
2 must take measures to correct the violation.

3 5. If the Code Enforcement officer believes it
4 is advisable, he or she may post a dated order in
5 a conspicuous place on the property, providing
6 notice that Community Decay condition(s) have been
7 found on the property and informing the Owner or
8 Responsible Party of the matters set forth above in
9 8.06.040(3) together with the abatement actions
10 that may be taken under Sections 8.06.050 if the
11 Owner or Responsible Party fails to abate the
12 Community Decay condition(s).

13 5. Request for Hearing. Within ten days after
14 receiving notice to comply with the code
15 enforcement notification to abate the Community
16 Decay condition(s), the Owner or Responsible Party
17 may request a hearing before the District Court.

18 If the Owner or Responsible Party has requested a
19 hearing, the Code Enforcement officer may not take
20 any action to abate the violation until after the
21 hearing and authorization to proceed has been

1 provided by the court.

2 SECTION 5: 8.06.050. Failure to Abate.

3 If the Owner or Responsible Party shall fail to
4 abate the Community Decay conditions pursuant to
5 the requirements set forth in the notice of
6 violation, or in the event of an appeal, within
7 ten days of the decision of the District Court
8 upholding the notice of violation, the Code
9 Enforcement Officer may enter upon the subject
10 Private Property and shall take any and all
11 measures necessary to abate the Community Decay
12 condition(s).

13 SECTION 6: 8.06.060 Cost of Abatement of the violation: A.

14 Within twenty days after abatement of the
15 Community Decay condition(s), the Owner or
16 Responsible Party will be notified of the cost of
17 abatement, including administrative costs. If the
18 Owner or Responsible Party fails to pay the bill
19 in thirty days, the Butte-Silver Bow Code
20 Enforcement officer shall certify the amount of
21 the charges to the clerk and recorder for

1 collection.

2 SECTION 7: 8.06.070 Tax Liability for payment of charges. If
3 any charges to be paid by the Owner or Responsible
4 Party pursuant to 8.06.060 have not been paid within
5 thirty (30) days, following notification or in the
6 case of a written objection, within thirty days
7 following the decision of the Council of
8 Commissioners, the clerk and recorder shall certify
9 the amount thereof, with the description of the
10 premises charged and shall extend the same to the
11 assessment list as a special tax on the real
12 property. If the real property for any reason is
13 exempt from general taxation, the amount of the
14 charge may be removed by direct claim against the
15 Owner or Responsible Party and collected in the
16 same manner as personal taxes.

17 A. Notice of Lien. The City-County shall notify the
18 responsible party that a lien has been placed on the
19 property by certified mail, return receipt requested.
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21 SECTION 8: 8.06.080 Appeals. Any person aggrieved by a

1 decision or action taken by the Code Enforcement
2 Officer pursuant to this chapter may appeal by
3 filing a petition within thirty calendar days to
4 the Second Judicial District Court requesting the
5 District Court modify or set aside the decision of
6 the Code Enforcement Officer.

7 SECTION 9: 8.06.090 Severability. If any provision of this
8 chapter or a section thereof, in any circumstances
9 is held invalid, the validity and application of
10 the remainder of the provisions or sections shall
11 not be affected

12 SECTION 10: 8.06.100 Remedies Not Exclusive. The procedure
13 established in this chapter are in addition to other
14 legal remedies established by law which may be
15 pursued to address violations of this chapter. The
16 use of this chapter shall be at the sole discretion
17 of the City-County.

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19 Section 11: Effective Date. This Ordinance shall be in full
20 force and effect from and after thirty (30) days
21 after its passage and approval.

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PASSED this ____ day of _____, 2017.

JOHN MORGAN
CHAIRMAN OF THE COUNCIL OF COMMISSIONERS

APPROVED this ____ day of _____, 2017.

DAVE PALMER
CHIEF EXECUTIVE

ATTEST:

SALLY J. HOLLIS
CLERK AND RECORDER

APPROVED AS TO FORM:

EILEEN JOYCE
COUNTY ATTORNEY

SHERYL RALPH
CHAIRMAN, JUDICIARY COMMITTEE