

Ordinance 139

AN ORDINANCE AMENDING THE DARBY MUNICIPAL CODE 7.16 REGARDING PUBLIC NUISANCES/DECAY.

WHEREAS; the Darby Town Council adopted Public Nuisance/Decay Ordinance 131 amending Municipal Code section 7.16 on August 27, 2002, and

WHEREAS; the Darby Town Council desires to amend Municipal Code 7.16 to improve the effectiveness and simplify implementation, and

WHEREAS; the strikethrough font (ex. ~~Font~~) in this ordinance shall be deleted language of the former Code and the bold, italic font (ex. *Font*) shall be language added to Code, and

WHEREAS; this ordinance shall be incorporated into the minutes of a regularly scheduled meeting Town Council meeting.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Incorporated Town of Darby that section 7.16 of the Municipal Code shall read:

- A. **7.16...Interpretation.** Nothing in this part shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution which is more restrictive than the provisions of this part.
- B. **7.16.010...Definitions**
1. "Community decay" means accumulations of ~~rubble~~, *rubbish*, debris, junk, trash, waste or refuse ~~within the public view~~.
 2. "Junkyard" means any establishment, place or property which is maintained, operated or used for storing, keeping, buying or selling junk, scrap, or other waste materials.
 3. "Person" means an individual, firm, partnership, company, association, corporation, or any other entity whether organized for profit or not.
 4. "Public nuisance" means:
 - (1) (a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property by an entire community or neighborhood or by any considerable number of persons;
 - (b) any premises where persons gather for the purpose of engaging in unlawful conduct.
 - (c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.
 5. ~~"Public view" is any point six feet above the surface of the center of any public road from which the community decay can be seen.~~
 6. ~~"Shielding" refers to fencing or other manmade barriers to conceal community decay from public view. It also refers to natural barriers. Any shielding barrier must conform to all local zoning, planning, building and protective covenant provisions. Any shielding is to be sufficient height so that none of the violation on the premises is visible to public view.~~
- C. **B. 7.16.020...Junkyards.** No person shall establish, operate or maintain any junkyard within the city limits of the Town of Darby.
1. *Storage of Certain Vehicles and Parts on Private Property Unlawful. Except as specifically permitted by this Part, the keeping or storage of junked, wrecked or inoperable motor vehicles or the dismantled parts thereof on private property is hereby declared to be a nuisance and to constitute a danger to the public health, safety and welfare.*

2. *Unlawful to Allow Certain Vehicles and Parts to Remain on Private Property for Longer than Ten (10) days.*
3. *Exceptions. The prohibitions of the Part shall not apply to the following:*
 - (1) *To any motor vehicle or parts thereof kept in an enclosed building and which are not visible to the public and to which the public does not have access.*
 - (2) *Motor vehicles which are stored on the premises awaiting the making of repairs to said vehicle for the purpose of rendering them operable; provided, that such motor vehicles shall not remain on the premises for such purpose for a period in excess of ninety (90) days.*
 - (3) *Motor vehicles capable of being licensed as antiques by the State of Montana and other makes of motor vehicles kept as classic cars so long as all such antiques and classics are assembled with substantially all essential parts and are in reasonable state of repair and preservation.*

D. ~~C.~~ 7.16.030...Community Decay. No person shall allow, suffer or permit community decay to exist within the public view on any property within the city limits of the Town of Darby. *All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage*

1. Disposal of Rubbish. Every occupant of a structure shall dispose of all rubbish and garbage in a clean and sanitary manner by placing such rubbish in approved containers.

2. Rubbish Storage Facilities. The owner of every occupied premise shall supply approved covered containers for rubbish and garbage and the owner of the premises shall be responsible for the removal of rubbish and garbage.

3. Appliances. Refrigerators and similar equipment or appliances not in operation shall not be discarded, abandoned or stored on premises.

4. Disposal of Garbage. Every occupant of a structure shall dispose of rubbish and garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers until removed from the premises for disposal.

~~D. 7.16.040...Shielding.~~ All plans for shielding shall be approved by the Darby Town Council prior to commencing construction or implementation, shall provide a similar degree of shielding at all times of the year, shall be attractive and neat in appearance, shall be maintained at all times in good condition, and shall comply with other Darby ordinances such as setback, height, zoning, etc.


- E. **7.16.050...Public Nuisance.** Any condition existing in violation of this ordinance is declared to be a public nuisance.
- F. **Responsibility for abatement.** *The owner, lessee, tenant or occupant of any premises within the city limits of the Town of Darby upon which any public nuisance exists shall be jointly and severally liable for the abatement of said nuisance and for the penalties hereinafter imposed.*
- G. **7.16.060...Notice to Abate.** *In the event that this ordinance shall be violated, the Town of Darby shall give ten (10) days notice of such violation to the owner, and/or lessee, and/or tenant, and/or occupant which notice shall state that unless the nuisance is abated within ten (10) days a prosecution will be instituted under this ordinance*

- H. ~~F.~~ **7.16.070...Penalty.** Any person violating any of the provisions of this ordinance *and shall fail to abate the nuisance within the time set forth in Section 7.16.060* shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of up to \$500 and imprisonment in the County jail for a term not to exceed six (6) months. Each day the violation exists shall be deemed a separate offense.

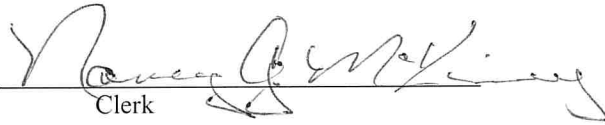
- I. **7.16.080...Authority for Town to Remove and Collect Cost Thereof.** *In addition to the imposition of a fine as provided for herein, any nuisance permitted to exist on any property in violation of this ordinance may be removed therefrom by the Town of Darby or its duly authorized agent, servant or employee and the cost of such removal shall be recoverable by the Town of Darby against the owner, and or the tenant, and/or the lessee, and /or the occupant of the premises which sum shall be recovered in addition to any fines imposed under this part.*

- J. ~~G.~~ **7.16.090...Effective date.** This ordinance shall become effective and in full force thirty days (30) after the second and final reading by the Darby Town Council.

PASSED AND APPROVED on first reading by the Town Council of the Incorporated Town of Darby at a regularly scheduled meeting thereof on this 13 day of June, 2006.



Mayor/Chairperson



Clerk

PASSED, APPROVED AND ADOPTED on second and final reading by the Town Council of the Incorporated Town of Darby at a regularly scheduled meeting thereof on this 27 day of June, 2006.



Mayor/Chairperson



Clerk

Amendment to Ordinance 139

AN ORDINANCE AMENDING ORDINANCE 139 OF WHICH AMENDED DARBY MUNICIPAL CODE TITLE 3 CHAPTER 4 (FORMERLY DARBY MUNICIPAL CODE 7.16) REGARDING PUBLIC NUISANCES/DECAY.

WHEREAS; the Darby Town Council adopted Public Nuisance/Decay Ordinance 139 amending Darby Municipal Code Title 3 Chapter 4 (Formerly Municipal Code 7.16) on June 13, 2006, and

WHEREAS; the Darby Town Council desires to amend section H. of Ordinance 139 (formerly Darby Municipal Code 7.16.070 and Darby Municipal Code Title 3 CHAPTER 4 SECTION 3-4-7) to improve the effectiveness and simplify implementation, and

WHEREAS; the strikethrough font (ex. ~~Font~~) in this ordinance shall be deleted language of the former Code and the bold, italic font (ex. *Font*) shall be language added to Code, and

WHEREAS; this ordinance shall be incorporated into the minutes of a regularly scheduled Town Council meeting.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Incorporated Town of Darby that section H. of Ordinance 139 now read:

H. **7.16.070...Penalty.** Any person violating any of the provisions of this ordinance ~~and shall fail to abate the nuisance within the time set forth in Section 7.16.060~~ shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of up to \$500 and imprisonment in the County jail for a term not to exceed six (6) months. Each day the violation exists shall be deemed a separate offense. The penalties for violation of this ordinance are established as follows: Incarceration is not a penalty for violation of this ordinance. A person convicted under the provisions of ordinance 139 shall be subject to a fine of \$500.00, no portion of which may be suspended, waived or deferred by the court. Each day the violation exists may be deemed a separate offense.

PASSED AND APPROVED on first reading by the Town Council of the Incorporated Town of Darby at a regularly scheduled meeting thereof on this 12th day of June, 2018.

Mayor/Chairperson

Clerk

PASSED, APPROVED AND ADOPTED on second and final reading by the Town Council of the Incorporated Town of Darby at a regularly scheduled meeting thereof on this 20th day of June, 2018.



Mayor/Chairperson



Clerk



Mayor.