

ORDINANCE NO. 2014-01

**AN ORDINANCE TO AMEND ORDINANCE NO. 2012-01 WHICH
ORDINANCE AMENDED CHAPTER 7-1-700 OF THE RONAN MUNICIPAL
CODE TO ENHANCE THE EFFECTIVENESS OF COMMUNITY UPKEEP EFFORTS**

Whereas, the City of Ronan has adopted Chapter 7-1-700 to its Municipal Codes, providing certain rules and regulations pertaining to community upkeep; and,

Whereas, the City of Ronan desires to amend the said Chapter 7-1-700 in order to provide an enhanced standard for community upkeep, together with procedures for effective enforcement:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
RONAN, MONTANA:**

1. Chapter 7-1-700 of the Ronan Municipal Code is amended in whole, as follows:

7-1-700 Community Upkeep

SECTIONS:	7-1-701	Intent
	7-1-702	Definitions
	7-1-703	Prohibition – Property Owner Responsible
	7-1-704	Abatement
	7-1-705	Shielding
	7-1-706	Removal of Snow and/or Ice
	7-1-707	Notice to be Given
	7-1-708	City May Cure
	7-1-709	Penalty

7-1-701. Intent - It is the intent of this Chapter to protect and maintain the attractive appearance of Ronan, as well as to protect and maintain the property values and development of the City and its economy. The City Council intends a safe and attractive community by setting standards regarding vegetative growth, potential fire hazards, minimizing adverse visual impacts, and public nuisances. The purpose of this Chapter is to regulate, control, and prohibit conditions that contribute to unsafe or unattractive community.

7-1-702. Definitions - In this Ordinance the following terms have the meanings indicated below:

“Community decay” means a public nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, create a public health or fire hazard, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property; provided, however, that “community decay” may not be construed or defined to apply to normal farming, ranching, agricultural facility, or business and any appurtenances thereof, during the course of its normal operation.

“In public view” means any area visible from a point up to six feet above the surface of the

center of any public roadway, publicly accessible roadway or private road in platted subdivisions and mobile home parks.

“Person” means any individual, firm, partnership, company, association, corporation, city, town, county, or any other entity whether organized for profit or not.

“Public nuisance” means:

- A. A condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or 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; or
- C. A condition that renders dangerous for passage any public highway or right-of-way or waters used by the public.
- D. Any act that affects an entire community or neighborhood or any considerable number of persons is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal

“Shielding” refers to fencing or other manmade barriers to conceal a facility from public view. It also refers to natural barriers.

7-1-703 Prohibition/Property Owner Responsible - No person shall maintain a public nuisance by allowing rubble, debris, junk, vegetation, or refuse to accumulate on property owned by him, or under his control, resulting in conditions that are injurious to health, indecent, offensive to the senses, a fire hazard or obstructive of the free use of property so as to interfere with the comfortable enjoyment of life, or as more particularly set forth in this Chapter. Real property owners shall be responsible to maintain the same from the centerline of the alley, if any, to the center of the adjoining right of way.

- A. Grass, weeds, and lawns which are not regularly cut and mowed and maintained. Grass length shall not exceed eighteen inches; weeds must be controlled and not allowed to propagate so as to constitute a fire hazard, and grass clippings must be properly disposed.
- B. Fallen leaves and branches that are allowed to accumulate upon the premises to the point of creating a safety or fire hazard.
- C. Fences or buildings which are allowed to deteriorate into an unsafe condition
- D. The accumulation of waste, both organic and inorganic, including junked vehicles or trailers.
- E. Lots must be maintained free of excessive vegetative growth, debris piles and other unsightly accumulations.

F. Any owner or occupant of any real property shall trim all trees overhanging any public thoroughfare, so that the branches thereon will not interfere with pedestrians or public travel and shall provide vertical clearance of 8 feet over sidewalks and multiuse paths, and 14 feet over streets.

G. Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalk or multiuse paths so that no part of said hedges and/or shrubbery shall extend over any part of a public sidewalk or multiuse paths.

H. It is hereby declared unlawful for any person, not the owner thereof, or without lawful authority so to do, to injure willfully, deface, disfigure, or destroy any tree or shrub, or to injure, destroy, cut or pick any flower or plant located on any public place or thoroughfare.

7-1-704 Abatement - The abatement of conditions which constitute a public nuisance, or otherwise prohibited by this Ordinance, shall be accomplished under the provisions of this section.

A. The City of Ronan ~~Police Chief~~ Mayor, or his designee, shall be responsible for initiating abatement proceedings.

B. When the City of Ronan receives a written, signed complaint that a condition of community decay exists, the Chief, or his designee, shall inspect the property alleged to be in violation of this Ordinance to determine whether there is a violation of this Ordinance.

C. If it is determined that a violation as complained does exist, the same shall be referred to the City Council for determination whether any enforcement is necessary. If the Council determines that enforcement is necessary, the Chief or his designee shall notify the owner of the property in writing of the violation by certified mail and order its abatement within thirty (30) days. The notice of violation shall:

1. Be sent by certified mail.
2. Include a statement specifically describing the violation;
3. Specify that the owner has thirty (30) days from receipt of such notice to bring the property into compliance with this Ordinance by means or removal or shielding of the conditions;
4. Advise the owner that if the violation is not abated, the City may undertake abatement and assess the costs of that abatement to the owner; and,
5. Be signed by the Mayor.

D. The owner may, after receipt of the notice of violation, submit a plan of abatement which shall include:

1. The type of abatement to be undertaken, which may include shielding as set forth

herein;

2. The date for commencement of action; and,
3. The date for completion of the abatement.

The ~~Police Chief~~ Mayor, or his designee, may accept such plan and defer further proceedings under this Ordinance pending the date of completion of the abatement.

E. In the alternative, the Owner may, at an agenda item duly included in the next regularly scheduled meeting of the City Council, appeal the abatement. If Owner makes no such request, then all right to appeal expires. At such agenda item, if any, the Council shall hear the appeal, and thereafter, may either:

1. Determine that a violation exists and order abatement within thirty (30) days of the date of the original notice, unless adjusted by the Council; or
2. Determine that no violation exists and dismiss the proceedings.

F. In the event that the owner fails to comply with an abatement order, either with or without appeal, the ~~Police Chief~~ Mayor, and/or his agent(s) may enter upon the owner's property with the specific purpose of abating or shielding the violation, whichever the ~~Police Chief~~ Mayor deems appropriate.

1. The City may assess the property owner/user for the actual costs of the abatement by the ~~Police Chief~~ Mayor.
2. If the assessment is not paid, it shall become a lien upon the property and enforced as is nonpayment of property taxes.

G. If, in the opinion of the ~~Police Chief~~ Mayor, or his designee, the nuisance is of such nature or character that immediate abatement is necessary to avoid a serious potential for physical injury, the abatement may be undertaken by the City and the Owner shall receive a certified bill of the costs associated thereto, upon which appeal as earlier stated shall lie.

7-1-705 Shielding - The maintenance of materials that would be considered a public nuisance under this Ordinance shall be lawful if such materials are shielded from public view in accordance with the following standards.

A. Any shielding must conform to all local zoning, planning, building, and protective covenant provisions and shall be of sufficient height that none of the violation on the premises is visible to public view.

B. When fences are used for shielding, the material to be used and the manner of placement shall be such as to conform to the requirements of this Chapter. Any fencing shall be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.

C. Shielding with shrubs and trees shall provide a degree of shielding similar to that produced by fencing at all times of the year. Dirt berms are acceptable for shielding purposes, provided the berm slopes are graded smooth and seeded with an adequate grass seed formula.

D. Other types of fencing of equivalent permanence, attractiveness, and shielding qualities, including corrugated metal, are also acceptable.

E. No more than one of the approved shielding materials shall be used on any one side of a shielding fence.

7-1-706 Removal of Snow and/or Ice - An accumulation of snow and ice on any public sidewalk adjoining private property shall constitute a nuisance. It shall be the duty of the owner or tenant of any premises abutting or adjoining any public sidewalk to remove all snow and/or ice from such sidewalk, which may not be disposed on any public right of way.

7-1-707 Notice to be Given - It shall be the duty of the City to give notice to any owner or tenant of any property to remove snow and/or ice which notice shall be either in person or sent by registered mail to the last known address of such owner, tenant or occupant. The owner or occupant shall have not more than twenty-four (24) hours from and after receipt of such notice within which to remove the snow and/or ice as set forth in said notice.

7-1-708 City May Cure - Upon failure of an owner or tenant to comply with the provisions of this Chapter, the City shall have the right to abate, or to remove snow and/or ice, and to assess the costs thereof as set forth herein.

The fees to be charged by the City for abatement of any violation hereof shall consist of the actual certified costs, of either the City's own crews, or of any person or firm contracted by the City to remediate the violation, plus costs of collection. The real property owner shall have the right to appeal the certified costs to the Council within 30 days.

Any assessment shall be certified to the County Assessor or other proper County official having charge of the making of the assessment roll and such charge shall be placed on the assessment roll and collected in the same manner as other City taxes are collected.

7-1-709 Penalty - In addition to the monetary costs recoverable by the City as set forth herein, a person in violation of this Chapter may receive a city civil citation for maintaining a public nuisance, and if convicted thereof shall be subject on the first occurrence in any calendar year of \$50, in addition to restitution to the city, if any, for its cost of remediation of such nuisance. In the event of a second conviction within the same calendar year, the fine shall be not less than \$100, or more than \$500, in addition to any restitution for remediation.

2. Chapter 9-1-600 of the Ronan Municipal Code is repealed in whole.

REPEALING CLAUSE: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: April 21, 2014.

SECOND READING: May 5, 2014.

NOW, THEREFORE, the foregoing Ordinance shall become effective on June 5, 2014.

PASSED AND ADOPTED THIS 5th day of May, 2014.

CITY OF RONAN

Kim Aipperspach, Mayor

ATTEST:

Kaylene Melton, City Clerk/Treasurer

APPROVED AS TO FORM:

Kathleen O'Rourke Mullins,
O'Rourke Mullins Law Office
Ronan City Attorney