

Chapter 7.10

COMMUNITY DECAY

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7.10.010 Definitions. In this ordinance the following terms have the meanings indicated below:

1. "Accumulate" means to store, gather, collect, heap or pile up.
2. "Community Decay" means a public nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses or which obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property:
 - A. Community Decay shall apply to the accumulation of rubble, debris, junk or refuse on agricultural land which is not necessary to the normal operation of the agricultural land.
 - B. Community Decay does not include properly permitted construction or demolition projects during the time any necessary permits are in effect.
 - C. Community Decay 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 operation of the business are neatly stacked or piled.
 - D. Community Decay does not include normal residential maintenance or landscaping.
3. "In Public View" means any area visible from a point up to six feet above the surface of the center of a public roadway.
4. "Nuisance" means anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs to free passage or use, in the customary manner, or any navigable lake, river, bay, stream, canal or basin or any public park, square, street, or highway.
5. "Person" means an individual, firm, partnership, company, association, corporation, town, or any other entity whether organized for profit or not.
6. "Public Nuisance" means a nuisance, 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.

7. "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, state, building and protective covenant provisions. Any shielding is to be sufficient height so that none of the violations on the premises is visible to public view.

7.10.020 Purpose and Governing Body. The purpose of this ordinance is to regulate, control, and prohibit conditions that contribute to community decay on or adjacent to all public roadways in the Town of Superior.

The Governing body to administer this Ordinance is the Town Council through its designated department.

7.10.030 Prohibitions. It shall be a violation of this Ordinance to own or maintain any public nuisance that results in community decay visible from a public roadway.

No person shall accumulate rubble, debris, or refuse that, upon investigation, is deemed to be a public nuisance as defined by this Ordinance. Material that may constitute community decay includes, but is not limited to, bricks, concrete, wood, cardboard, paper, pallets, tires, dead animals, animal parts, demolition waste, junk vehicles, wrecked trailers, iron, metal, machine parts, appliances, and barrels.

7.10.040 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.

1. When fences are used for shielding, the boards may be spaced and/or slanted to reduce wind load. The space between boards when viewed from a broadside may not be more than 1½ inches wide. Chain link fences with standard fiberglass or similar inserts are acceptable, provided the gap between adjacent inserts does not exceed 1½ inches.
2. No more than one of the approved shielding materials shall be used on any one side of a shielding fence.
3. The fencing is to be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced and/or repaired when necessary.
4. Screening with trees and shrubs must provide a similar degree of shielding at all times of the year. Trees and shrubs may best be used in conjunction with other shielding materials. A berm may also be used, provided the slopes of the berm are covered and graded smooth, with not less than three inches of top soil, and seeded with a weed free seed mix.
5. Any shielding must conform to all local, state, building code and protective covenant provisions applicable to the property and shall be sufficient height that none of the nuisance materials on the premises is visible to public view.
6. The material being shielded may not present a threat to public health and safety.

7.10.050 Abatement and Mitigation. The abatement or mitigation of conditions which constitute a public nuisance prohibited by this Ordinance shall be accomplished under the provisions of this section.

- A. Upon its own initiative, or within thirty (30) days of receiving a written, signed complaint that a condition of community decay exists, the Town shall inspect the subject property to determine whether there is a violation of this ordinance.

- B. If it is determined that there is a violation of this Ordinance, the Town shall notify the owner, manager or lessee of the property, or other responsible party in writing of the violation by certified mail, return receipt, and order its abatement or mitigation within thirty (30) days of their receipt of the letter. The notice of violation shall:
1. Include a statement specifically describing the violation;
 2. Specify that the owner, manager, or lessee, or other responsible party has thirty (30) days from the receipt of such notice to bring the property into compliance, or to submit a corrective action plan to comply with this ordinance by means of removal, shielding or mitigation of the conditions; and
 3. Advise the owner, manager, or lessee, or other responsible party that if the violation is not resolved, the Town may undertake abatement or mitigation and assess the costs to the owner.
- C. Upon receipt of a notice of violation, the owner, manager, or lessee, or other responsible party, may submit a plan to the Town of Superior, which shall include.
1. A complete description of the plan to be undertaken.
 2. The date for commencement of the corrective action.
 3. The date for completion of the corrective action. An extension may be granted at the discretion of the Town.
- D. The Town may accept or reject the plan, accept the plan with modifications, or request additional information before making a final determination.
- E. The owner, manager, or lessee, or other responsible party may appeal Town of Superior's final decision according to the procedure set forth in Section 6.

7.10.060 Appeal Process. An alleged violator may appeal a department's decision in writing via certified mail to the Superior Town Council within ten (10) days of the department's final decision regarding:

1. A determination that a community decay violation exists,
2. Rejection of a corrective action plan, or
3. The assessment of a fine for noncompliance.

The Town Council shall hold a hearing within forty-five (45) days from the date that the appeal was received. The Town Council shall, in writing, affirm, modify or withdraw the department's decision within thirty (30) days after the hearing. Once an appeal for a hearing has been made, the department's decision shall be stayed until the Town Council has held the hearing and affirmed, modified or withdrawn the determination of the department.

If a violator fails to resolve a violation upon order from the Town Council, the department shall be authorized to remedy the violation, and assess costs to the property owner, manager, or lessee, or other responsible party. In the event that a violator does not appeal the department's decision and fails to resolve the violation, the department will bring the matter before the Town Council for authorization to complete the corrective action, and assess costs to the property owner, manager, or lessee, or other responsible party. If the assessment is not paid, it shall become a lien upon the property and may be enforced, as is non-payment of property taxes.

7.10.070. Enforcement and Penalties. A violation of this Ordinance, or plan approved under this Ordinance or order issued under this Ordinance shall constitute a misdemeanor. Any person who shall violate any of the provisions of this Chapter shall, upon conviction, thereof, be punishable as provided in Section 1.08.010 of the Town Code. Each day the violation is in existence may be considered a separate violation. Any court or judge before whom there may be pending any proceeding for the violation of any of the provisions of this chapter, in addition to any fine or other punishment which it may impose for such violation, may order such nuisance abated.

7.10.080. Jurisdiction. This ordinance applies to all of the Town of Superior.

(Ordinance No. 212)