

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1170

AN ORDINANCE AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA RELATING TO NUISANCES.

BE IT ORDAINED by the City Council of the City of Miles City, Montana as follows:

Section 1. Section 15-1 of the Code of Ordinances of the City of Miles City, Montana is amended to read as follows:

Sec. 15-1. Public nuisance defined.

(a) Public nuisance means:

- (1) a condition which 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, including but not limited to, the following:

The enumeration, below, shall not be deemed exclusive, but merely illustrative, it being the intent and purpose of this subsection to include as nuisances, all actions or things of the character described in Subsection (a)(1), above.

- A. Accumulating, maintaining or storing in public view on any lot or other parcel of land, any abandoned, discarded, or unused furniture, stoves, sinks, toilets, cabinets, household fixtures or equipment, or junk. If such material is being accumulated as part of an ongoing, active salvage business other than an approved licensed motor vehicle wrecking facility, the salvage business must be located in a properly zoned area for such a business and shall be fully shielded from public view;
- B. Accumulating, maintaining or storing in public view on any lot or other parcel of land any junk vehicle, component part of a motor vehicle, or any abandoned, wrecked, dismantled, or inoperative trailers, campers, boats or other water craft. Any person possessing one or more junk vehicles, regardless of ownership, shall shield the vehicles from public view or remove the vehicles to a licensed motor vehicle wrecking facility or to a licensed motor vehicle graveyard, as defined by section 75-10-501, Montana Code Annotated;
- C. Dumping, piling, or stacking of bricks, concrete blocks, waste wood and similar material on any lot or other parcel of land, unless said material is stacked in neat piles and all waste materials from the cleaning of such items, such as mortar, wood splinters, broken and unusable bricks, are removed;
- D. Accumulating, maintaining or storing of a significant amount of cardboard boxes, broken packing boxes, paper, or other similar items on any lot or other parcel of land;

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- E. Piling, dumping or depositing of any dirt, demolition wastes including wood, bricks, concrete, used road blacktop and other similar materials on any lot or other parcel of land, unless such material is to be utilized for fill material to fill a land depression, and provided that, if such material is used as fill material, all such material is completely covered with clean fill material once every ten (10) days and the fill area is adequately fenced to restrict access to the area; and further provided that the failure to comply with the periodic cover and access control requirements shall constitute a violation of this chapter. The storage by a governmental entity of used road blacktop, cold mix, gravel and other similar materials for road maintenance and repair is expressly permitted;
- F. Maintaining or accumulating on any lot or other parcel of land, garbage, refuse, decaying vegetation, animal bedding, waste or feces, cesspool, water holes, unsealed water tanks, stagnant water, or any other condition which is or may reasonably become infested or inhabited by rodents, reptiles, vermin or wild animals or may furnish a breeding place for mosquitoes or flies;
- G. Maintaining, or causing or permitting the same on any lot or other parcel of land, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects exist to the extent that the life, health, property, value of property or safety of the occupants or the public are jeopardized:
- i. Broken or missing window or windows which have remained in such condition for a period exceeding thirty (30) days;
 - ii. Broken or missing exterior door or doors which have remained in such condition for a period exceeding thirty (30) days;
 - iii. Holes in the roof or exterior walls, other than normal construction, which have remained in such condition for a period exceeding thirty (30) days;
 - iv. Fire or other casualty damage in public view which remains unrepaired for a period exceeding six (6) months;

A building which is undergoing construction or remodeling for which a valid building permit has been issued by the City shall not be deemed in violation of this subsection so long as work thereon is prosecuted with reasonable diligence and so long as the building permit has not expired.

(2) any premises where persons gather for the purpose of engaging in unlawful conduct;

(3) a condition which renders dangerous for passage any public highway or right of way or waters used by the public."

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(b) A person commits the offense of maintaining a public nuisance if such person knowingly creates, conducts or maintains a public nuisance. The owner of a parcel of property and the occupant of the parcel of property are jointly and severally liable for any violation of this section. There is a rebuttable presumption that the person named as owner of the property on the current assessment list of the Montana Department of Revenue is the owner of the property for purposes of this chapter.

(c) Any act which affects an entire community or neighborhood or any considerable number of persons (as specified in subsection (a)(1) of this section) is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(d) This section shall be applicable to and enforced on all classifications of property listed under Chapter 24, pertaining to zoning."

Section 2. There is added a Section 15-13 to Chapter 15 of the Miles City Code of Ordinances to read as follows:

"Sec. 15-13 General definitions.

For purposes of this chapter, the following definitions shall apply:

"Component part" means any identifiable part of a discarded, ruined, wrecked, or dismantled motor vehicle, including, but not limited to, fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.

"Inoperative" means a motor vehicle, trailer, camper, boat or other water craft which is not in operating condition, or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for its operation, or, on which there are displayed neither valid license plates nor a valid tax decal.

"Junk" means old appliances, equipment, or parts thereof, old iron or other scrap metal, automobile or truck tires, cardboard, old lumber or scrap wood, rags, rope, paper, debris, rubble, batteries, rubber debris, mattresses or any worn out, cast off or discarded article or material which is ready for destruction or has been collected or stored as salvage, for conversion to some other use or for reduction into components and is not part of a commercial or public salvaging or recycling operation

"Junk vehicle" means a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully and validly licensed and remains inoperative or incapable of being driven.

"Motor vehicle" means a vehicle designed to be propelled by its own power and designed or used to transport persons or property upon public highways, streets, or alleys.

"Person" means any individual, firm, partnership, company, association, corporation, governmental entity or other private entity, whether organized for profit or not.

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“Public view” means any point 6 feet above the surface of the center of a public road from which a violative condition can be seen.”

Section 3. There is added a Section 15-14 to Chapter 15 of the Miles City Code of Ordinances to read as follows:

Sec. 15 -14 Enforcement Procedure.

The prohibitions in this chapter may be enforced as follows:

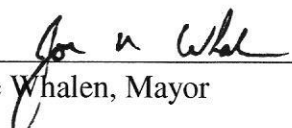
a. If the Code Enforcement Officer, in the officer’s reasonable discretion, determines that the alleged public nuisance presents an emergency, then he shall issue a citation and may take immediate action to abate the public nuisance. In such circumstances, the Code Enforcement Officer shall have the authority to contact City employees and to request their assistance in abating the nuisance.

b. If the Code Enforcement Officer, in the officer’s reasonable discretion, determines that the alleged public nuisance is not an emergency, then the Code Enforcement Officer shall provide a notice to the owner and occupant, if any, advising the owner and occupant of the complaint and requesting that the alleged public nuisance be abated within a period of not more than ten (10) days. The Code Enforcement Officer shall reinspect at the end of the ten (10) day period. If the owner or occupant has not abated the alleged public nuisance within the time required by the notice, then the Code Enforcement Officer shall issue a citation and take those actions reasonably necessary to abate the alleged public nuisance.

c. Notice to the owner shall be given by certified mail, return receipt requested, addressed to the owner or owners as named in the most current assessment list for the parcel of property at the address set forth in such assessment list. Notice to the occupant shall be given by personal service, by certified mail, return receipt requested, addressed to the occupant at the physical address of the property, or by posting notice in a conspicuous place upon the property. Notice is deemed given upon its mailing, personal service or posting.

Section 4. This amendment shall become effective thirty (30) days after its final passage.

Said ordinance read and put on its passage this 26th day of June, 2007.



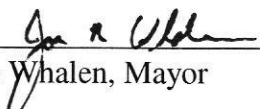
Joe Whalen, Mayor

ATTEST:



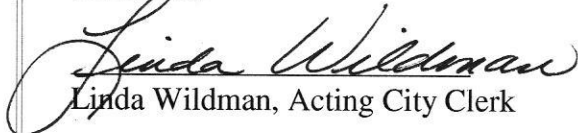
Linda Wildman, Acting City Clerk

FINALLY PASSED AND ADOPTED this 10th day of July, 2007.



Joe Whalen, Mayor

ATTEST:



Linda Wildman, Acting City Clerk