**ORDINANCE NO. 457**

**AN ORDINANCE TO REGULATE, CONTROL, AND PROHIBIT CONDITIONS THAT CONTRIBUTE TO COMMUNITY DECAY**

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

**SECTION: 1: INTENT**

 **2: DEFINITIONS**

 **3: PROHIBITIONS**

 **4: SHIELDING**

 **5: ABATEMENT AND MITIGATION**

 **6: JURISDICTION**

 **7: PENALTY**

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**SECTION 1: INTENT:** The purpose of this Chapter is to regulate, control and prohibit conditions that contribute to community decay or public nuisances on, adjacent to or visible from all public roadways and rights of way within the City, so as to improve property values and increase community awareness of each individual's responsibilities and obligations as good citizens and good neighbors.

**SECTION 2: DEFINITIONS:** For purposes of this Chapter, the following definitions shall apply:

 **COMMUNITY DECAY:** Any public nuisance created by fire damaged structures, animal enclosures or by allowing rubble, outside toilets, debris, junk, refuse, landscaping debris or other matter to accumulate, resulting in conditions that are injurious to health, are indecent, are offensive to the senses, or which obstruct the free use and enjoyment of adjacent property so as to interfere with the comfortable enjoyment of life or the values of property. This definition does not apply to properly permitted construction and/or demolition projects during the time any necessary permits are in effect. This definition 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 operations of the business are neatly stacked or piled. This definition does not include normal residential maintenance or landscaping projects.

 **COMPONENT PART:** 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.

 **DEPARTMENT:** Any government agency designated by the City Council to enforce this Chapter.

 **JUNK VEHICLE:** A discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully and validly licensed and/or remains inoperative or incapable of being driven.

 **PERSON:** Any individual, firm, partnership, company, association, corporation, city, town or other entity, whether organized for profit or not.

 **PUBLIC NUISANCE:** Any 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.

 **PUBLIC VIEW:** Any area visible from a point up to six feet (6') above the surface of the center of a public roadway or right of way.

 **SHIELDING:** Any natural barriers, fencing or other manmade barriers used to conceal a facility from public view. All shielding barriers must conform with all local zoning, planning, building and protective covenant requirements. All shielding barriers shall be of sufficient height and density to conceal any violation on the premises from public view. This definition is not intended to require that permanent buildings, utility poles of other similar structures be shielded.

**SECTION 3: PROHIBITIONS:** It shall be a violation of this Chapter to own or maintain any public nuisance or community decay as follows:

A. No person shall dump, pile, or stack bricks, concrete blocks, waste wood, and similar material in public view unless said material is stacked in neat piles and all waste material from the cleaning of such items, such as mortar, wood splinters, broken and unusable bricks, is removed to a licensed solid waste disposal facility or to some other location which has been approved by the designated department within thirty (30) days.

B. No person shall store or accumulate cardboard boxes, broken packing boxes, paper, broken shipping pallets, rubble, debris, junk, refuse, dead animals or animal parts, or other similar items in public view.

C. No person shall pile, dump or deposit any dirt, demolition waste, including work, bricks, concrete, used road blacktop, or other similar materials in public view unless such material is to be utilized for fill material to fill a land depression. If such material is used as fill material it may contain only dirt, bricks, concrete and/or used road blacktop, as allowed by local, State and Federal regulations. All such material must be completely covered with clean fill material once every thirty (30) days and the fill area must be adequately fenced to restrict access to the area.

D. No person shall store or accumulate iron, metal, machine parts, household appliances, barrels, component parts or other salvage metal items in public view.

E. No person shall accumulate or store any other rubble, debris, junk or refuse that, upon investigation, is deemed to be a "public nuisance" as defined in this Chapter.

F. It is a public nuisance for any person to keep or maintain any pen or enclosure, stable or building for animals in such a filthy or unwholesome condition as to be offensive to neighbors or passersby, or injurious to the health of the neighborhood.

G. It is a public nuisance for any owner, lessee, occupant or resident of any premises to suffer or cause to be maintained on such premises for twenty-four hours or longer any unwholesome, decaying or putrid animal or vegetable matter which contaminates the atmosphere or endangers or injures the health of any person, or which is indecent or offensive to the senses or interferes with the comfort or enjoyment of any resident in the City.

H. It shall be the duty of every owner (occupant) of real property within the City to cut, destroy and remove, or cause to be cut, destroyed and removed, all weeds or grasses in excess of twelve inches (12") in height growing thereon and upon one-half (1/2) of any road, street or alley abutting this property to a height of four inches (4") or less.

I. All weeds and vegetation in the City shall also comply with, and be subject to, all requirements imposed under the laws of the City and the State with regard to visibility at intersections, alleys and drive approaches.

J. 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.

**SECTION 4: SHIELDING:** The maintenance of material that would be considered a public nuisance shall be lawful under this Chapter if such material is shielded from public view in accordance with the following standards:

A. Any shielding must conform to all local zoning, planning, building code and protective covenant requirements applicable to the property and shall be of sufficient height and density that none of the nuisance material on the premises is visible to public view.

B. Trees, hedges and shrubs are preferred as shielding.

C. No more than one nonvegetative shielding material shall be used on any one side of a shielding barrier unless approved by the designated department.

D. All materials must comply with all local, State and Federal regulations, including the Uniform Fire Code.

**SECTION 5: ABATEMENT AND MITIGATION:** The abatement or mitigation of conditions which constitute a public nuisance prohibited by this Chapter shall be accomplished under the provisions of this Section. Where an established use results in the storage of material otherwise prohibited in this Chapter within public view due to an elevated public right of way or other circumstance beyond the control of the property owner, the condition shall be mitigated in accordance with the provisions of this Section.

A. Initiation: Abatement or mitigation shall be initiated by the City of Roundup.

B. Inspection: Where a condition of community decay exists, the designated department shall conduct an inspection of the property alleged to be in violation of this Chapter to determine whether there is, in fact, a violation.

C. Notice: If it is determined that there is a violation of this Chapter, by the City Council, the designated department shall notify the owner of the property of the violation, in writing and by personal service thereof or by certified mail, and order the abatement or mitigation of the violation or the submission of a plan for abatement or mitigation within thirty (30) days. The notice of violation shall:

1. Include a statement specifically describing the violation;

2. Specify that the owner, manager or lessee of the property has thirty (30) days from receipt of such notice to bring the property into compliance or to submit a plan to comply with this Chapter by means of removal, shielding or mitigation of the conditions; and

3. Advise the owner, manager or lessee of the property that if the violation is not abated or mitigated, the City of Roundup may undertake abatement or mitigation and assess the costs thereof to the owner of the property.

D. Plan Of Abatement Or Mitigation: The owner, manager or lessee of the property may, after receipt of a notice of violation, submit a plan of abatement or mitigation to the designated department which shall include.

1. The type of abatement, shield or mitigation to be undertaken;

2. The date for commencement of action; and

3. The date for completion of the abatement of mitigation, not to exceed thirty (30) days.

The designated department may accept such a plan and defer further proceedings under this Chapter pending abatement or mitigation.

E. Enforcement:

1. After thirty (30) days, or the date agreed to by the property owner and the City of Roundup, which shall not exceed a total of sixty (60) days, the department shall determine whether the violation has been abated.

2. When enforcing this Chapter, the City shall have the option to pursue any sanctions in any order, and shall pursue abatement or mitigation procedures when necessary to protect the health, safety and welfare of the residents of the City.

3. If the owner fails to act, the designated department shall issue a citation and set a date and time for an appearance in the City Court whereby the owner must appear and show cause why the violation has not been abated. Every day from this point forward will constitute a separate violation.

4. If the property owner has still failed to comply, department representatives or contractors acting on the department's behalf may enter upon the owner's property for the specific purpose of abating, mitigating or shielding the violation, whichever the department deems appropriate.

5. The City may assess the property owner for the actual costs of the abatement, mitigation or shielding, together with an administration cost equal to twenty-five percent (25%) of the actual cost.

6. If the assessment is not paid, it shall become a lien on the property and may be enforced the same as nonpayment of property taxes.

**SECTION 6: JURISDICTION:** This Chapter applies to property within the City limits.

**SECTION 7: PENALTY:** Any person convicted of violating this Chapter is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) and not exceeding five hundred dollars ($500.00).

**SECTION 8: EFFECTIVE DATE:** This chapter shall become effective thirty (30) days after its final passage and adoption by the City Council.

**SECTION 9: COMPATIBILITY:** Nothing in this Chapter or in section 7-5-2110, Montana Code Annotated may be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution that is more restrictive than the provisions of this Chapter or section 7-5-2110, Montana Code Annotated.

**SECTION 10: SEVERABILITY:** If any provision of this Chapter is held to be invalid, such invalidity shall not affect other provisions which can be given effect without this invalid provision. To this end, the provisions of this Chapter are severable.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 6th day of May, 2003.

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 Almeda F. Moore - Mayor

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Ellen J. Lee - Clerk/Treasurer