

Ordinance 822

An ordinance repealing Ordinance 720, 2002 codified as Chapter 19.60, Junk Vehicle Nuisances and replacing it with Chapter 19.60, Junk Vehicle Public Nuisance

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section .010, Title, is created to read as follows:

This chapter shall be titled Junk Vehicle Public Nuisance and adopted pursuant to RCW 36.32.120 and RCW 46.55.240, as now enacted or hereafter amended.

Section 2. Section .020, Purpose, is created to read as follows:

(1) It is the purpose and intent of this chapter to eliminate the effects of the accumulation of damaged and inoperable vehicles and parts thereof which create blight, depress property values, generate health hazards, contribute to injury, damage the environment including numerous species of fish and wildlife, provide breeding areas for pests such as rodents, hornets and mosquitoes, attract illegal dumping of other solid waste and hazardous substances, and lead to criminal behavior, detrimentally affecting the health and safety of communities and neighborhoods in rural and urbanized areas of unincorporated Clallam County. It is further the purpose of this chapter to declare that removal of such vehicles from private property is a governmental purpose for which public funds may be spent as determined appropriate and necessary by the Director of the Department of Community Development.

(2) All landowners have the right to the full use and enjoyment of their property, consistent with state law and County ordinances, where such use does not infringe on the rights of adjacent landowners.

(3) In instances where an individual's actions significantly infringe on the use and enjoyment rights of adjacent landowners, the County may act to abate a nuisance.

(4) This chapter is meant to supplement state law, not replace it. The County reserves the right to avail itself of all remedies available pursuant to state law.

(5) While this chapter authorizes the County to take action to resolve junk vehicle public nuisances, it shall not be construed as placing responsibility upon the County to resolve a junk vehicle public nuisance in any particular case, or as creating any duty on the part of the County to any particular person(s). The County is not required to remove junk vehicles from private property by virtue of any of the provisions set forth in this chapter.

Section 3. Section .030, Definitions, is created to read as follows:

Specific words and terms used in this chapter shall have the meanings defined below. All other words or terms shall have the meanings defined by the latest edition of Webster's New Collegiate Dictionary. Terms, phrases, and words used in the singular shall also apply to the plural. Terms, phrases, and words used in the plural shall also apply to the singular.

(1) "Apparently inoperable" means that a vehicle does not appear to comply with legal requirements for vehicles used or parked on public streets with regard to safety equipment such as brakes, lights, tires, mirrors, and safety glass, or with regard to vehicle licensing requirements.

(2) "Department" means the Clallam County Department of Community Development.

(3) "Director" means the Director of the Clallam County Department of Community Development or his/her designee.

(4) "Junk vehicle," per RCW 46.55.010, means a vehicle certified under RCW 46.55.230, as now enacted or hereafter amended, as meeting at least three of the following requirements:

- (a) is three years old or older;
- (b) is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield; or missing wheels, tires, motor, or transmission;
- (c) is apparently inoperable;
- (d) has an approximate fair market value equal only to the approximate value of the scrap in it.

(5) "Landowner" means the legal owner of record of the property on which a junk vehicle is stored, kept, placed, or otherwise located, and/or a person with possession or control of such private property, or public official having jurisdiction over public property.

(6) "Law enforcement officer" means, for purposes of this chapter, any commissioned officer in the Washington State Patrol or the Clallam County Sheriff's Department with jurisdiction.

(7) "Public official" means any person who is elected or appointed to public office.

(8) "Registered tow truck operator" means a firm, partnership, tow operator, association or corporation licensed by the State of Washington to perform towing and storage duties who has entered into a contract with the Clallam County Sheriff's Department to tow unauthorized vehicles from rights-of-way and who has entered into a subsequent contract to perform towing and storage services under this chapter.

(9) "Vehicle" means but is not limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on public right-of-way, and shall also include parts of vehicles, but shall not include farm machinery, prominently displayed ornamental machinery, devices designed to be moved by human or animal power, or devices used exclusively upon stationary rails or tracks.

Section 4. Section .040, Junk vehicle public nuisance declared, is created to read as follows:

(1) It is hereby declared that, except as provided in CCC 19.60.050, the storing or keeping of one or more junk vehicles on private property of less 2.5 acres, or two or more junk vehicles on private property of 2.5 acres or greater constitutes a public nuisance, subject to abatement by the last registered owner(s) of the junk vehicle(s) and/or the owner of the property where the junk vehicles are located as provided by state law and the provisions of this chapter.

(2) Purchasers of real property are responsible for abatement of any junk vehicle public nuisance in existence at the time of purchase.

(3) Junk vehicles on Clallam County right-of-way are also declared to be a public nuisance and may be impounded pursuant to RCWs 36.32.120, 46.55.230 and 46.55.240, as now enacted or hereafter amended.

Section 5. Section .050, Exemptions, is created to read as follows:

The following are exempt from the provisions of this chapter:

(1) A junk vehicle completely enclosed within a building in a lawful manner where it is not visible from a public or private street or road, or other public or private property;

(2) A junk vehicle stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler/wrecker or a licensed vehicle dealer, provided the junk vehicle is fenced according to RCW 46.80.130, as now enacted or hereafter amended;

(3) A junk vehicle which is owned by a collector of antique, vintage, historic, classic, or muscle and special interest vehicles which is in the process of restoration, and which is recognized

by national vehicle organizations such as the Veterans Motor Car Club of America or Sema. Such vehicles, when located in public view prior to or during the restoration process, shall, upon request by the Director, be moved to a storage or work area not readily visible by the general public.

(4) Up to three junk vehicles for which the landowner can show current registration in his or her name, and for which (s)he submits a declaration expressing his or her intent to bring the same into operating condition within one year from the date of the declaration, and which are not parked on public roads or shared easements; and placed so as minimize public view, and which are kept free of accumulating garbage and other health hazards.

Section 6. Section .060, Enforcement, is created to read as follows:

(1) The Director or his designee, any law enforcement officer, and the Clallam County Prosecuting Attorney all have the authority to enforce this chapter.

(2) Per RCW 46.55.230(6), it is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law enforcement agency or the Department investigating the incident.

(3) Per RCW 36.32.120, it shall be a misdemeanor to violate this chapter by knowingly causing, creating, or acquiescing in the existence of a junk vehicle public nuisance as defined herein. Each calendar day that a junk vehicle public nuisance remains unlawfully upon property shall constitute a separate offense; provided however, that no person shall be prosecuted for such offense until 45-calendar days after service of the Notice of Violation and Abatement or while a valid Cooperative Abatement Agreement is still in effect.

(4) This chapter is subject to the enforcement and penalty provisions contained in CCC Title \diamond , Code Compliance, except to the extent preempted by state or federal law, or any contrary enforcement and penalty provisions contained in this chapter.

(5) Clallam County shall not issue any permit, license, or other development approval on a development proposal site subject to a Notice of Violation under this chapter; provided that Clallam County may issue such permits to rectify or correct violations.

(6) Nothing in this section or this chapter shall be construed to preclude the Clallam County Prosecuting Attorney from bringing such additional, injunctive, declaratory, or other actions as are necessary to enforce the provisions of the Clallam County Code.

Section 7. Section .070, Entry, is created to read as follows:

(1) With permission of the landowner, the Director or a law enforcement officer is authorized to enter onto property upon which a junk vehicle public nuisance exists, for the purpose of obtaining information about the vehicles necessary to determine the last registered owner, record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only the approximate value of the parts, pursuant to RCW 46.55.230, as now enacted or hereafter amended. The Director or law enforcement officer shall provide such information on the vehicle's registered and legal owner to the landowner.

(2) If permissive entry cannot be obtained, the law enforcement officer or prosecuting attorney may apply to District Court for a search warrant notwithstanding the inability to locate the landowner.

(3) Denial by the landowner to grant permission to the Director or a law enforcement officer for the purpose set forth in subsection (1) of this section may be considered as evidence that the landowner is responsible for abating the junk vehicle public nuisance and as evidence that the landowner is acquiescing to the presence of the junk vehicle public nuisance for the purpose of this chapter.

Section 8. Section .080, Junk vehicle public nuisance abatement, is created to read as follows:

(1) The following shall constitute abatement of a junk vehicle public nuisance under this chapter:

(a) Removal of junk vehicles from private property in accordance with RCW 46.55.230, as now enacted or hereafter amended, and/or this chapter, so that no junk vehicles remain.

(b) Complete enclosure of junk vehicles within a lawfully constructed building so that no junk vehicles are visible from a public or private street, or other public or private property.

(2) Removal of a junk vehicle and placing it onto Clallam County right-of-way or other public property, or onto the private property of another without permission, or resulting in a junk vehicle public nuisance on the private property of another, constitutes an additional violation under this chapter, and does not constitute abatement of a junk vehicle public nuisance.

(3) A junk vehicle public nuisance shall be considered ongoing and daily penalties shall continue to accrue up to the date that the landowner notifies the Director in writing that the junk vehicle public nuisance has been abated, if the Director is able to confirm the same in writing after being allowed entry on the property to inspect the same.

(4) Any such writing by the Director confirming that a junk vehicle public nuisance has been abated shall not constitute nor be considered a warranty, guarantee, or certification of any kind, express or implied, by Clallam County.

Section 9. Section .090, Notice of Potential Violation, is created to read as follows:

If, based on field observations or complaints, the Director determines that a junk vehicle public nuisance may exist in violation of CCC 19.06.040, the Director may mail a written Notice of Potential Violation to the landowner, containing the following:

(1) The name and address of the landowner;

(2) The location of the subject property by address, parcel number, or legal description;

(3) A summary of the information that forms the basis of the determination that a junk vehicle public nuisance may exist on the subject property;

(4) A deadline of 30-calendar days from the mailing of the Notice of Potential Violation by which the landowner must resolve the junk vehicle public nuisance;

(5) A description of the corrective action necessary to abate the violation;

(6) The process through which the landowner can schedule a formal inspection by the Director to determine that no such junk vehicle public nuisance exists or that such junk vehicle public nuisance has been abated;

(7) The process through which the landowner can legally remove the junk vehicle public nuisance;

(8) The criteria of eligibility for and the process by which the landowner may request to be considered for assistance under the cooperative abatement program set forth in CCC 19.60.110.

Section 10. Section .100, Notice of violation and citation, is created to read as follows:

(1) If, based on field observations or complaints, the Director determines that a junk vehicle public nuisance may continue to exist either after 30-calendar days have passed since the mailing of the Notice of Potential Violation under CCC 19.60.090, or after terminating the Cooperative Abatement Agreement under CCC 19.60.110, the Director may serve a Notice of Violation and Citation to the landowner, containing the following:

- (a) The name and address of the landowner;
- (b) The location of the subject property by address, parcel number, or legal description;
- (c) A summary of the information that forms the basis of the determination that a junk vehicle public nuisance may exist on the subject property;
- (d) A description of the corrective action necessary to abate the violation;
- (e) Notification that the violation must be abated within 45-calendar days of service unless a timely and proper Notice of Appeal is submitted;
- (f) Notification that if any of the persons to whom the Notice of Violation and Citation is issued wish to appeal said Notice and request a hearing before the Hearing Examiner, they must submit a written Notice of Appeal to the Director within 14-calendar days of service;
- (g) The process through which the landowner can schedule a formal inspection by the Director to determine that no such junk vehicle public nuisance exists or that such junk vehicle public nuisance has been abated; Daily penalties will accrue until the Director has determined in writing that the junk vehicle public nuisance has been abated;
- (h) Notification that if the person(s) to whom the Notice of Violation and Citation is issued fail to properly submit a timely Notice of Appeal or fail to abate the nuisance, daily penalties as stated in the Notice of Violation and Citation will begin to accrue on the first day after 45-calendar days have passed from the date of service of the Notice of Violation and Citation, and will continue to accrue every day thereafter up to the day that the Director confirms in writing that the junk vehicle public nuisance has been abated;
- (i) Notification that penalties are due 30-calendar days after they accrue, and that if any penalties remain unpaid 90-calendar days after they accrue, interest will begin to accrue at 6 percent per annum, a lien will be recorded against the subject property (if owned by the responsible person), and/or the amounts due will be forwarded to a collection agency for collection;

(2) The Notice of Violation and Citation must be served on the landowner by either personal service on the landowner or by mailing two copies, postage prepaid, one by ordinary first class mail and the other by certified mail to the landowner's last known address. The taxpayer's address as shown on the County's tax records relating to the subject property shall be deemed to be the proper mailing address of the landowner. The person affecting the service shall provide a notarized written declaration stating the date and time of service and the manner by which service was made. Service by mail shall be deemed effective upon the third business day following the day upon which the Notice of Violation and Citation was placed in the mail.

(3) The Director may grant in writing an extension of the time limit if the landowner has made a request therefore in writing and shown due diligence or substantial progress in abating the nuisance, but circumstances render timely completion unattainable.

(4) The Director may record a lien after penalties have remained unpaid for 90-calendar days after their accrual.

(a) The lien for penalties shall run with the property and shall accrue interest at 6 percent per annum from the date of recording until paid in full;

(b) The lien for penalties shall contain a reference to the Notice of Violation and Citation, a description of the property to be charged with the lien, the owner of record, and the total amount of

the lien. The Director may cause such lien to be modified to add accrued penalties after they have remained unpaid for 90-calendar days;

(c) The Director shall record a corrected lien to reflect any partial waiver of penalties, upon the landowner's successful performance under a Cooperative Abatement Agreement entered into between the Director and the landowner pursuant to CCC 19.60.110.

(5) Notification that the Notice of Violation and Citation may be recorded against the subject property in the Clallam County Auditor's office subsequent to service;

Section 11. Section .110, Cooperative abatement program, is created to read as follows:

(1) The Director is authorized to establish a Cooperative Abatement Program to encourage and assist in the voluntary removal of junk vehicles from private property. A Cooperative Abatement Program may provide:

- (a) technical assistance to expedite the removal of junk vehicles;
- (b) financial assistance within budgeted funds to defray landowner costs associated with the removal of junk vehicles, and/or;
- (c) waiver of accrued but unpaid penalties to offset landowner costs associated with removal of junk vehicles.

(2) A Cooperative Abatement Agreement may be entered into at any time before an appeal brought by a landowner relating to this chapter is decided unless otherwise limited by the Director pursuant to subsection (7) of this section.

(3) To qualify for assistance, a landowner must enter into a written Cooperative Abatement Agreement, with the Director. A Cooperative Abatement Agreement shall contain an acknowledgement by the landowner that there exists on his or her property a junk vehicle public nuisance and that his or her failure to perform under the Agreement may be construed as his or her acquiescence to its presence.

(4) The Cooperative Abatement Agreement shall contain the landowner's name, the address of the property, a description of the junk vehicles to be removed from the property, permission to enter and inspect the property, the action to be taken, the date when it must be completed, and such other conditions as the Director deems necessary and appropriate under the circumstances to effect complete abatement of the nuisance.

(5) In the event that a landowner is not the last registered owner of a junk vehicle, the Director or law enforcement officer may identify the last registered owner of the junk vehicle and provide notice to him or her on behalf of the landowner that the vehicle must be removed and disposed in a manner that complies with all applicable laws.

(6) Should the last registered owner fail to remove the vehicle(s) as directed, Clallam County may contract with registered tow truck operators to remove the vehicle(s) from the landowner's property.

(7) In furtherance of the goals of this chapter, the Director shall have discretion to establish additional requirements and procedures deemed necessary and consistent with this chapter to limit:

- (a) the form of technical assistance;
- (b) the amount of financial assistance to be provided to a landowner;
- (c) how many times a landowner may participate in a program;
- (d) time limits within which the landowner must apply to participate in the program;
- (e) the amount of time a landowner has to comply with a Cooperative Abatement Agreement;

(f) eligibility to specific land use zones.

The Director may deny a landowner's participation if they are in violation of or have a pattern of past violations of other Clallam County, state, or federal laws.

(8) If the extent of the nuisance exceeds any limits placed on financial assistance, the landowner shall be responsible for lawful removal and disposal of any additional vehicles, fully bearing the cost thereof, concurrent with the removal of those vehicles for which assistance is being received.

(9) If the landowner who is party to a Cooperative Abatement Agreement fails to comply with the terms and conditions thereof by the date set forth in the Cooperative Abatement Agreement, the junk vehicle public nuisance may be abated pursuant to any other lawful remedy provided for in this chapter or elsewhere.

(10) This section shall not be construed to impose a duty upon the County or the Director to enter into a Cooperative Abatement Agreement with any landowner.

(11) A landowner's submission of a request to be considered for assistance under a Cooperative Abatement Agreement does not in any way toll or otherwise affect any deadlines, periods of appeal, accrual of daily penalties, and the like.

(12) The Director shall maintain sufficient records to monitor and enforce this section and any eligibility requirements or restrictions implemented by the Director.

(13) The Director may record a copy of the executed Cooperative Abatement Agreement with the Clallam County Auditor's Office. In that case, the Director shall record a certificate of correction with the Clallam County Auditor's Office when all violations specified in the Cooperative Abatement Agreement have been corrected as required by the Cooperative Abatement Agreement. The certificate shall include a legal description of the property where the violation occurred and shall state if any unpaid penalties and costs for which liens have been recorded are still outstanding and continue as liens on the property.

(14) The Director may grant in writing an extension of the time limit if the landowner has made a request therefore in writing and shown due diligence or substantial progress in abating the nuisance, but circumstances render timely completion unattainable.

(15) A Cooperative Abatement Agreement is not a settlement agreement.

Section 12. Section .120, Penalty waivers, is created to read as follows:

(1) Penalties may be waived by the Director under the following circumstances and to the following extent only:

(a) If a Notice of Violation and Citation was issued in error, or if penalties were assessed in error, the Director may adjust the penalties to the correct amount. The Director shall document the circumstances under which a decision was made to adjust penalties and such a statement shall become part of the public record unless privileged, and shall issue and serve an amended Notice of Violation and Citation.

(b) If the junk vehicle public nuisance has been fully abated according to the terms of a duly executed Cooperative Abatement Agreement under this chapter, then the Director shall waive a portion of the accrued but unpaid penalties, and associated interest, according to the table set forth herein, which amount shall be specifically memorialized in said Cooperative Abatement Agreement.

If the date of the Cooperative Abatement Agreement is:	Portion of accrued but unpaid penalties to be waived
Within 90-calendar days of imposition of penalties	75 percent
After 90-calendar days of imposition of penalties	50 percent
Within 90-calendar days of recording lien for penalties	50 percent
After 90-calendar days of recording lien for penalties	25 percent
Within 45-calendar days of the acquisition date of the subject property by new owners (including inheritance)	75 percent
After 45-calendar days of the acquisition date of the subject property by new owners (including inheritance)	25 percent

This partial waiver of penalties shall only apply to unpaid penalties and associated interest. Under no circumstances shall anything in this subsection be construed to mean that the Department or the County shall owe reimbursement of penalties and/or interest already paid.

(c) In partially waiving penalties and interest, the Director must follow the above table and may not deviate from the same. This objective waiver of penalties serves to further the overriding public purpose of abating junk vehicle public nuisances, and recognizes the environmental and public health benefits to the County of abating such nuisances.

(d) The Director shall not waive any assessed costs of code compliance or actual abatement costs incurred by the County, including associated interest thereon. Actual abatement costs are funds spent by the County to achieve physical abatement of the violation pursuant to CCC 19.60.200.

(e) Upon a determination that the junk vehicle public nuisance has been abated according to the terms of the Cooperative Abatement Agreement, the Director shall record an amended lien that reflects the partial waiver of penalties and associated interest.

(f) Within 30-calendar days of full payment of any remaining penalties and associated interest, the Director shall record a lien satisfaction.

Section 13. Section .130, Notice of violation and abatement, is created to read as follows:

(1) If, based on field observations or complaints, the Director determines that a junk vehicle public nuisance continues to exist either after the deadline indicated in the Notice of Violation and Citation sent under CCC 19.60.100, or after terminating the Cooperative Abatement Agreement under CCC 19.60.110, the Director may serve a Notice of Violation and Abatement.

(2) The Notice of Violation and Abatement shall be issued to the landowner and to the last registered owner of record if that person can be determined.

(3) The Notice of Violation and Abatement shall be served by means of personal service or by mailing a copy of said notice to such person at his/her last known address by certified mail, with a 5-day return receipt requested. Service by mail shall be deemed effective upon the third business day following the day upon which the Notice of Violation and Abatement was placed in the mail. Proof of service shall be made by a written declaration by the person effecting the service, declaring the time and date of service and the manner by which service was made.

(4) The Notice of Violation and Abatement shall contain substantially the following information if it is reasonably obtainable:

- (a) the name and address of the person to whom the notice is issued;
- (b) the location of the subject property by address or other description sufficient for identification of the subject property;

- (c) a summary of the information that forms the basis of the determination that a junk vehicle public nuisance may exist on the subject real property;
- (d) a description of the corrective action necessary to abate the violation;
- (e) notification that the violation must be abated within 45-calendar days of service unless a timely and proper Notice of Appeal is submitted;
- (f) notification that if any of the persons to whom the Notice of Violation and Abatement is issued wishes to appeal said Notice and request a hearing before the Hearing Examiner, they must submit a written Notice of Appeal to the Director within 14-calendar days of service;
- (g) the process by which the landowner can schedule a formal inspection by which the Director may determine that no such junk vehicle public nuisance exists or that such junk vehicle public nuisance has been abated;
- (h) notification that if the persons to whom the Notice of Violation and Abatement is issued fail to submit a timely Notice of Appeal within 14-calendar days of service and fails to voluntarily abate the nuisance within 45-calendar days of service, the junk vehicle(s) will be removed at the request of a law enforcement officer with notice to the Washington state patrol and the Department of Licensing that the vehicle has been wrecked, pursuant to CCC 19.60.200 and RCW 46.55.240(3)(d),
- (i) Notification that the cost of administration, removal, and disposal of junk vehicle(s) pursuant to subsection (h) of this section shall be assessed against the owner of the property on which the vehicle(s) are stored pursuant to CCC 19.60.200, unless otherwise specified in the Order of the Hearing Examiner pursuant to CCC 19.60.170.

Section 14. Section .140, Notice of appeal, is created to read as follows:

- (1) Within 14-calendar days of service of a Notice of Violation and Citation or a Notice of Violation and Abatement, the landowner and/or the last registered owner of record of the vehicle, may submit a written Notice of Appeal to the Director.
- (2) The appellant may appeal:
 - (a) Whether the Director appropriately identified the vehicle as a junk vehicle; or
 - (b) Whether the landowner is appropriately being held responsible for the nuisance because said landowner did not consent to the presence of the junk vehicle and has not subsequently acquiesced in its presence; or
 - (c) Whether the last registered owner of record of the vehicle is appropriately being held responsible for the nuisance because said owner, in the transfer of ownership of the vehicle, has complied with RCW 46.12.101, as now enacted or hereafter amended.
- (3) The Notice of Appeal must be in writing and received no later than 4:30 p.m. on the last day of the appeal period at Clallam County Department of Community Development, 223 E. 4th Street, Suite 5, Port Angeles, WA 98362. If the last day of an appeal period falls on a weekend or legal holiday, the appeal period shall be extended until 4:30 p.m. the next business day. The Notice of Appeal shall include the following:
 - (a) a statement of the appellant's issue(s) on appeal;
 - (b) signature, address, and telephone number of the appellant, and name and address of their designated representative, if any;
 - (c) \$250 appeal fee.

Section 15. Section .150, Notice of hearing, is created to read as follows:

(1) If the Director receives one or more Notices of Appeal, the Director shall issue and serve a Notice of Hearing to the appellant(s) at least 15-calendar days prior to the date of the hearing on appeal. Requests from multiple parties concerning the same violation shall be consolidated.

(2) The Notice of Hearing shall contain the date, time, and location of the hearing; the name and telephone number of the Director; and whether the hearing will address the assessment and allocation of CCC 19.60.200 costs of abatement.

(3) The Notice of Hearing shall be served by mailing a copy of said notice to any party who filed a Notice of Appeal, the landowner, and the last registered owner of record of the vehicle unless it is in such condition that identification numbers are not available to determine ownership, at their last known addresses by certified mail, with a 5-day return receipt requested. Proof of service shall be made by a written declaration by the person affecting the service, declaring the time and date of service and the manner by which service was made. For purposes of issuing and serving notice in this section, the term landowner shall be broadly defined to include not only the owner of real property as shown on the last equalized assessment roll, but any other individual with possession or control of the property, if known to the Director.

(4) In addition to the preceding and at the cost of the appellant, the Director shall provide public notice of the hearing on appeal by mailing the same by regular mail to all owners of adjacent properties that abut the subject property. The appellant shall obtain the official list of names and addresses from the County Assessor's office. Documents of record within the County Assessor's office shall be controlling as to the status of legal ownership. For the purposes of this section, properties separated by public right-of-way are considered to be adjacent properties.

Section 16. Section .160, Hearing, is created to read as follows:

(1) The appeal of a Notice of Violation and Citation or a Notice of Violation and Abatement shall be heard by the Hearing Examiner as an appeal of an administrative decision.

(2) The hearing will address the allowable grounds of appeal as stated in the Notice of Appeal. If the Hearing Examiner determines that multiple parties share responsibility for the nuisance, the Examiner will allocate the assessment of costs of administration, removal, and disposal among the responsible parties.

(3) The owner of the property on which the junk vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the property, with his or her reasons for the denial, pursuant to RCW 46.55.240(3)(d), as now enacted or hereafter amended.

Section 17. Section .170, Order of the Hearing Examiner, is created to read as follows:

(1) The order of the Hearing Examiner shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to such person at his/her last known address. Service by mail shall be deemed effective upon the third business day following the day of mailing.

(2) Proof of service shall be made by a written declaration of the person affecting the service, declaring the time and date of service and the manner by which service was made.

(3) The Hearing Examiner, in affirming the Director's Notice of Violation and Abatement, may assess administrative costs or costs related to the abatement. The Hearing Examiner may also order the refund of fees to parties deemed not responsible for the abatement.

(4) If it is determined at the hearing that the vehicle was placed on the property without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the Hearing Examiner's order shall not assess costs of administration or removal of the vehicle against

the property upon which the vehicle is located or otherwise attempt to collect the cost from the landowner, pursuant to RCW 46.55.240(3)(d), as now enacted or hereafter amended.

Section 18. Section .180, Reconsideration, is created to read as follows:

Appeal decisions of the Hearing Examiner may be reconsidered upon a motion of reconsideration pursuant to Clallam County Code and Administrative Policies.

Section 19. Section .190, Appeal of Hearing Examiner's decision, is created to read as follows:

The appeal decisions of the Hearing Examiner as set forth in the Order of the Hearing Examiner pursuant to CCC 19.60.170 are final unless appealed by filing a request for an appeal in Clallam County District Court within 20-calendar days of service of the Order of the Hearing Examiner, together with a filing fee in the amount required for the filing of a suit in District Court.

Section 20. Section .200, Removal and disposal - Costs – Liens, is created to read as follows:

(1) After 45-calendar days have passed since service of the Notice of Violation and Abatement and if no appeal has been filed, or after 20-calendar days have passed since service of the Order from the Hearing Examiner resulting in authority to remove, the Director may proceed with organizing the removal and disposal of the junk vehicle(s) thereof according to the provisions of RCW 46.55.240(3)(e) and (4), as now enacted or hereafter amended.

(2) Cost of removal may be assessed against the last registered owner of the junk vehicle if the identity of the owner can be determined, unless the owner, in the transfer of ownership of the vehicle, has complied with RCW 46.12.101, as now enacted or hereafter amended, or the costs may be assessed against the owner of the property where the junk vehicle public nuisance is located.

(3) The Director shall record a lien for abatement costs incurred by the County pursuant to a Notice of Violation and Abatement under CCC 19.60.130, and all other related costs against the real property on which any of the work of abatement was performed, unless and to the extent that the landowner was not responsible in the Order issued by the Hearing Examiner under CCC 19.60.170. The Director shall record such a lien within 90-calendar days from the date the work was completed or the nuisance abated whichever is later.

(a) The lien for abatement costs shall run with the property, shall be subordinate to all previously existing special assessment liens imposed on the same property, and shall be superior to all other liens, except for state and county taxes, with which it shall be in parity, pursuant to RCW 36.32.120(10), as now enacted or hereafter amended, and shall accrue interest at 6 percent per annum from the date of recording the lien until paid in full;

(b) The lien for abatement costs shall contain a reference to the Notice of Violation and Abatement and/or Order of the Hearing Examiner, a description of the property to be charged with the lien, the owner of record, and the total amount of the lien;

(4) If any abatement costs remain unpaid after 90-calendar days have passed since the work was completed or the nuisance abated whichever is later, the Director may forward the amounts due to a collection agency for collection.

(5) Within 30-calendar days of full payment of all abatement costs assessed against the landowner, the Director shall record a lien satisfaction with the Clallam County Auditor's Office, or its successor agency. The satisfaction shall include a legal description of the property where the violation occurred.

Section 21. Section .210, Vehicles unfit for use, is created to read as follows:

In the course of duties allowed or required elsewhere in law, it may be determined that a vehicle is unfit for use due to contamination from methamphetamine or other substances which are harmful to health or the environment. The Director may consider a vehicle that is determined to be unfit for use to be a junk vehicle subject to the provisions of this chapter.

Section 22. Section .220, Junk Vehicle Cooperative Abatement Program fund, is created to read as follows:

(1) There is hereby created in the General Fund a special revenue fund entitled "Junk Vehicle Cooperative Abatement Program." This account shall be credited with sums appropriated by the Board of Commissioners, with penalties and costs collected under this chapter, and with other moneys as may be designated for this account. Expenditures from said sums may be made by the Director to pay for the removal of junk vehicles from the real property of landowners who have entered into a Cooperative Abatement Agreement pursuant to CCC 19.60.110, or to pay for the removal of junk vehicles pursuant to CCC 19.60.200.

(2) The Director shall provide to the BOCC a yearly report with summaries of account deposits and expenditures, as well as outstanding penalties and costs, and efforts made to collect them.

Section 23. Section .230, Severability, is created to read as follows:

If any section, subsection, or other portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, or portion thereof shall be deemed a separate provision of this chapter and such holding shall not affect the validity of the remaining portions of this chapter.

Section 24. Section .240, Repeal of previous abandoned vehicle ordinance and effective date, is created to read as follows:

This chapter shall become effective on July 1, 2007, at which time Ordinance 720, 2002, adopted April 2, 2002, relating to junk vehicles nuisances will be repealed and replaced by the ordinance codified in this chapter.

ADOPTED this twenty-second day of May 2007



ATTEST:

Trish Holden
Trish Holden, CMC, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS

Stephen P. Tharinger
Stephen P. Tharinger, Chair

Michael C. Chapman
Michael C. Chapman

Howard V. Doherty, Jr.
Howard V. Doherty, Jr.