

**ESTABLISHING A SOLID WASTE NUISANCE ORDINANCE
WITHIN THE COUNTY OF WAHKIAKUM**

WHEREAS, the Board of Commissioners of Wahkiakum County have acknowledged the interests of the community in freedom from unsightly and unhealthy junk and clutter; and

WHEREAS, the Board has inquired thoroughly into the desires of the community through its traditional means and through both repeated public meetings throughout the county and a nonbinding ballot measure, which overwhelmingly advised the Board to adopt a solid waste nuisance ordinance in substantially the following format; and

WHEREAS, this Ordinance is therefore desired by and in the best interests of the citizens of the County of Wahkiakum;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WAHKIAKUM AS FOLLOWS:

A new chapter is added to the Wahkiakum County Code, effective immediately, to read as follows:

Section 1. Purpose:

- A. All property owners have the right to the full use and enjoyment of their property where such does not infringe on the rights of adjacent property owners.
- B. In instances where an individual's actions significantly infringe on the use and enjoyment rights of adjacent property owners, the county may act to abate a nuisance.
- C. The keeping of public nuisance junk, junk vehicles, and/or solid waste that create conditions that reduce the value of adjacent private property, become hiding places for rodents, breeding places for mosquitoes and other insects, safety hazards for children, environmental hazards to the soils, surface and ground waters, and blights on the landscape, all detrimental to the health, safety, welfare, peace and well-being of the general public. Therefore, the purpose and intent of this ordinance is to regulate the proliferation of junk, junk vehicles, and/or solid waste from private property, provide monetary penalties for violations of this ordinance, and to provide procedures for the removal of junk, junk vehicles and/or solid waste.

Section 2. Definitions: For the purpose of this ordinance,

- A. **Department** means the Wahkiakum County Department of Health & Human Services.

- 1 B. **Director** means the director of the Department.
- 2
- 3 C. **Agricultural Equipment** is machinery originally manufactured for the purpose of:
- 4 1) Planting, harvesting, or transporting crops.
- 5 2) Feeding, watering, transporting, or caring for livestock.
- 6 3) Maintaining farmland.
- 7
- 8 D. **Junk** is defined as old appliance(s), equipment, junk vehicle(s), or significant parts thereof, scrap metal, automotive tires, and any items which are not being used for their intended purpose.
- 9
- 10 E. **Junk Vehicle** means an unregistered vehicle or vessel meeting at least three (3) of the following criteria:
- 11 1) is three (3) years old or older;
- 12 2) is extensively damaged;
- 13 3) is apparently inoperable;
- 14 4) has a fair market value equivalent only to the value of scrap.
- 15
- 16 F. **Premises** means any building, lot, parcel, real estate, land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
- 17
- 18 G. **Responsible Person(s)** means any legal property owner(s) and/or representative as indicated by Wahkiakum County assessor records.
- 19
- 20 H. **Significant Parts** of a junk vehicle means more than fifty (50) percent of any of the following:
- 21 1) chassis
- 22 2) body
- 23 3) engine
- 24
- 25 I. **Solid Waste** is defined as two (2) or more cubic yards of material including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, junk vehicles or parts thereof, and recyclable materials, unless kept in covered bins or receptacles; Provided, that nothing herein shall prohibit the maintenance of a compost pile as long as the usage of the same is intended for the household's use.
- J. **Vehicle** means every device capable of being moved upon a roadway and in, upon, or by which any person or property is or may be transported or drawn upon a roadway, and includes without limitation, automobiles, trucks, trailers, motorcycles, recreational vehicles, travel trailers, campers, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

1 K. **Vessel** means every watercraft used or capable of being used as a means of transportation
2 on the water, other than a seaplane. (RCW 88.02.010)

3 **Section 3. Certification of Junk Vehicle:** Any person duly authorized under the authority of the
4 Director shall inspect and declare under penalty of perjury that a vehicle meets the requirements of a
5 junk vehicle. Such declaration shall be in writing and shall record the vehicle make and/or model if
6 available. The declaration shall also describe in detail the damage or missing equipment to verify that
7 the requirements under Section 2(E) are met.

8 **Section 4. Certification of Junk:** Any person duly authorized under the authority of the Director shall
9 inspect and declare under penalty of perjury that the junk meets the requirements as defined in Section
10 2(D). Such certification shall be in writing and shall describe the junk in detail to verify that the
11 requirements under Section 2(D) are met.

12 **Section 5. Certification of Solid Waste:** Any person duly authorized under the authority of the
13 Director shall inspect and declare under penalty of perjury that the solid waste meets the requirements
14 as defined in Section 2(I). Such certification shall be in writing and shall describe the junk in detail to
15 verify that the requirements under Section 2(I) are met.

16 **Section 6. Junk, Junk Vehicles and Solid Waste Prohibited:** It shall be unlawful to deposit, park,
17 store or abandon junk and/or junk vehicles on private property that is within view from public
18 right-of-way, public property or private property with exceptions as provided in Section 7. Such
19 violation shall be subject to the abatement procedure set out in this ordinance.

20 **Section 7. Exceptions:** This ordinance shall not apply to:

- 21 A. Up to three junk vehicles which are not parked within 50' from the centerline of a public
22 road or on a shared easement; and placed so as to minimize public view, and which are
23 kept free of accumulating garbage and other health hazards.
- 24 B. Any junk and/or junk vehicles or significant parts thereof stored behind a sight-obscuring
25 fence or densely planted evergreen hedge which is not less than six (6) feet in height or
within a completely enclosed building where it is not visible from the public right-of-way,
public property, or private property. The fence shall conform to current Wahkiakum
County codes and be approved by the Director.
- C. Any junk and/or junk vehicle that is 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.

1 D. A junk vehicle that is stored or parked in a lawful manner on private property in connection
2 with the business of a licensed dismantler/wrecker where the premises are fenced according
3 to RCW 46.80.130.

4 E. Inoperable agricultural equipment located on land classified by the Wahkiakum County
5 Assessor as farm and agricultural land (land use code 81xx, 82xx, or 83xx).

6 **Section 8. Procedures for Abatement:**

7
8 **A. Initiation of Abatement:** Enforcement of this section may be initiated by the Director
9 through his/her observation and/or upon receipt of a complaint given by a citizen or
10 property owner of Wahkiakum County. Citizen or property owner initiated complaints
11 must indicate the specific address of the property suspected to be in violation.

12 **1) Entry for the purpose of junk, junk vehicle and/or solid waste certification per**
13 **Section 3, Section 4 and Section 5 of this ordinance;**

14 a. With permission of the landowner, the Director or a law enforcement officer
15 is authorized to enter onto property upon which suspected junk, junk
16 vehicles and/or solid waste exist, for the purpose of certification per Section
17 3, Section 4 and Section 5 of this ordinance.

18 **2) Notice of Violation.** If the responsible person(s) are found to be in violation of this
19 ordinance, a notice of violation shall be given by hand or mailed via certified mail
20 to the responsible person(s). Notices of violation sent by certified mail shall have a
21 five (5) day return receipt requested. This notice shall include the following:

22 a. The name and address of the responsible person(s);

23 b. The street address or other description sufficient for identification of the
24 building, structure, premises, or land upon or within which the violation has
25 occurred or is occurring;

c. A description of the violation and a reference to the regulation which has
been violated;

d. The necessary corrective action to be taken, and a date or and/or time by
which correction must be completed;

1 e. This notice may include a request of the responsible persons(s) to attempt to
2 secure a voluntary abatement agreement with the Department within fifteen
3 (15) days of hand delivery or the date of the postmark of the certified
4 mailing.

5 i. **Voluntary Abatement Agreement.** The responsible person(s) may
6 enter into a voluntary correction agreement with the Department,
7 acting through the Director, if requested by the Director in the notice
8 of violation.

9 ii. **Content.** The voluntary abatement agreement is a contract between
10 the County and the responsible person(s) in which the responsible
11 person(s) agrees to abate the violation according to the timeline and
12 conditions specified within the voluntary abatement agreement. The
13 voluntary abatement agreement shall include the following:

- 14 1. The name and address of the responsible person(s);
- 15 2. The street address or other description sufficient for
16 identification of the building, structure, premises, or land
17 upon or within which the violation has occurred or is
18 occurring;
- 19 3. A description of the violation and a reference to the
20 regulation which has been violated;
- 21 4. The necessary corrective action to be taken, and a date or
22 and/or time by which correction must be completed;
- 23 5. An agreement by the responsible person(s) that the director
24 may enter the property and inspect the premises as may be
25 necessary to determine compliance with the voluntary
abatement agreement;
6. An agreement by the responsible person(s) that the director
may abate the violation and recover its costs and expenses
(including administrative, hearing and removal costs) and/or
a monetary penalty pursuant to this chapter from the
responsible person(s) if the terms of the voluntary abatement
agreement are not satisfied.

1 d. Fines. Monetary penalties may be assessed for violations of this ordinance
2 via issuance of a notice of abatement and infraction. Monetary penalties for
3 violations of this ordinance will be graduated as follows:

- 4 i. First violation – One Hundred Twenty-Five Dollars (\$125.00)
5 ii. Second violation – Two Hundred Fifty Dollars (\$250.00)
6 iii. Third and subsequent violations – Five Hundred Dollars (\$500.00)

7 e. The required corrective action and a date and time by which the correction
8 must be completed and, after which the county may abate the unlawful
9 condition in accordance with this ordinance.

10 f. A notice that a public hearing may be requested before a hearing officer
11 within fifteen (15) days from the date of hand delivery or from the date of
12 the postmark of the notice of abatement and infraction if mailed.

13 g. A notice that the county may recover its costs and expenses (including
14 administrative, hearing and removal costs) and/or a monetary penalty
15 pursuant to this chapter from the responsible person(s) per section 13 of this
16 ordinance.

17 2. **Hearing Request.** If a request for hearing is received by Wahkiakum County
18 within fifteen (15) days of the hand delivered notice or of the postmark of the
19 mailed notice, a notification giving the time, location and date of such hearing on
20 the questions of abatement and removal of the junk and/or junk vehicle(s) or part(s)
21 thereof will be sent to the person requesting the hearing of his/her authorized
22 representative by certified mail with a five (5) day return receipt requested.

23 3. **No Hearing Request or Voluntary Abatement.** If no hearing is requested within
24 fifteen (15) days from the date of hand delivery or from the date of the postmark of
25 the notice of abatement if mailed and the violation has not been voluntarily abated,
the junk, junk vehicle, significant parts thereof, or solid waste will be caused to be
removed by the Wahkiakum County Sheriff at the expense of the responsible
person(s) per Section 13 of this ordinance.

4. **Hearing officer.** The Director as defined in this ordinance shall serve as the
Hearing Officer.

Section 9. Determination of Responsibility: The responsible person(s) shall appear in person at the
hearing or present a written statement in time for consideration at the hearing.

1 **Section 10. Hearing:** Hearings are for the purpose of contesting the county's intent to remove junk,
2 junk vehicle(s), or solid waste after a notice of abatement has been hand delivered or sent by certified
3 mail to the responsible person(s). A copy of the hearing officer's written opinion will be given to the
4 party at the conclusion of the hearing. In the event the hearing officer must take the decision under
5 advisement, the written order will issue within 14 days and be mailed by certified mail to the party
6 who sought the hearing.

7 **Section 11. Appeals:** The responsible person(s) may appeal the decision of the Hearing Officer
8 directly to the Wahkiakum Board of County Commissioners. The appeal must be filed within ten (10)
9 days of service of the final order. The petitioner will notify the hearing officer and the sheriff's office
10 in writing of the petitioner's intent to appeal.

11 **Section 12. Abatement and Removal:**

12 A. The Sheriff's office will cause the removal of the junk, junk vehicle, and/or solid waste
13 after:

- 14 1) Fifteen (15) days have elapsed after the date of the hand delivered notice or of the
15 postmark of the mailed notice;
- 16 2) Fifteen (15) days have elapsed after the hearing officer's final decision is received
17 by the responsible person(s) and an appeal has not been filed; or
- 18 3) Ten (10) days after an appeal to the Board of Commissioners of Wahkiakum
19 County has been heard and denied.

20 B. Vehicle(s) or part(s) thereof will be removed by a license tow company, licensed vehicle
21 wrecker, hulk hauler or scrap processor with notice given to the Washington State Patrol
22 and to the Department of Licensing that the vehicle has been wrecked.

23 C. All other junk and/or solid waste will be removed by and disposed of by a licensed disposal
24 company.

25 **Section 13. Costs of Removal and Disposal:** The costs of removal and disposal shall be assessed
against the responsible person(s).

Section 14. Severability: If any provision or section of this ordinance shall be held void or
unconstitutional all or other parts, provisions, and sections of this ordinance not expressly so held to be
void or unconstitutional shall continue in full force and effect.

1 This ordinance shall take effect immediately upon passage.

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3 **DULY PASSED AND ADOPTED** this 19th day of January, 2016.

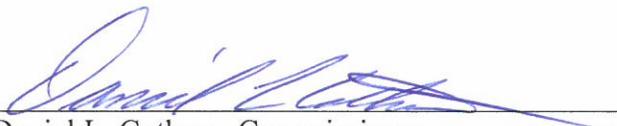
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5 **BOARD OF COUNTY COMMISSIONERS**
6 **OF WAHKIAKUM COUNTY, WASHINGTON**

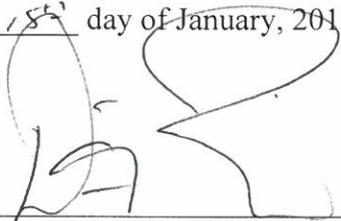
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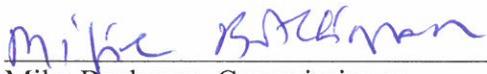
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9 
10 Elizabeth Johnson
11 Clerk of the Board

8 
9 Blair H. Brady, Chairman

11 **APPROVED AS TO FORM** this
12 19th day of January, 2016.

11 
12 Daniel L. Cothren, Commissioner

13 
14
15 Daniel H. Bigelow
16 Prosecuting Attorney

13 
14 Mike Backman, Commissioner