

ORDINANCE NO. 261

RELATING TO THE ABATEMENT OF CONDITIONS WHICH CONSTITUTE
A PUBLIC NUISANCE AND ADDING A NEW CHAPTER 9.56, "PUBLIC NUISANCES,"
TO THE KITSAP COUNTY CODE

WHEREAS, Chapter 35.80 RCW authorizes the County to adopt ordinances relating to unfit dwellings, structures, and premises; and

WHEREAS, Chapter 46.55 RCW authorizes the County to adopt ordinances establishing procedures for the abatement and removal of junk vehicles or parts thereof as public nuisances; and

WHEREAS, the conditions outlined in RCW 35.80.010 and RCW 46.55.240 concerning unfit dwellings, buildings, structures and junk vehicles exist within Kitsap County; and

WHEREAS, the public health, safety, and welfare require that the County establish procedures for the correction or removal of such conditions;

NOW, THEREFORE, BE IT ORDAINED:

NEW SECTION. Section 1. A new Chapter 9.56, "Public Nuisances" is added to Kitsap County Code as follows:

Sections:	
9.56.010	Purpose.
9.56.020	Definitions.
9.56.030	Voluntary correction.
9.56.035	Prerequisite to notice of abatement.
9.56.040	Notice of abatement.
9.56.050	Hearing before the violations hearing examiner.
9.56.060	Abatement by the county.
9.56.070	Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.
9.56.080	Additional enforcement procedures.
9.56.090	Removal of personal property and/or solid waste placed onto public access.
9.56.100	Conflicts.
9.56.110	Representation by Attorney.

Section 9.56.010 Purpose.

This chapter provides for the abatement of conditions which constitute a public nuisance where premises, structures, vehicles, or portions thereof are found to be unfit for human habitation, or unfit for other uses, due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, or due to other conditions which are inimical to the health and welfare of the residents of Kitsap County.

Section 9.56.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

(1) "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a nuisance under this chapter by such means, in such a manner, and to such an extent as the Director determines is necessary in the interest of the general health, safety and welfare of the community.

(2) "Act" means doing or performing something.

(3) "Building" means any legally constructed structure consisting of a minimum of three sides and a roof.

(4) "Director" means the director of the Department of Community Development, or the director of the Department of Public Works, or their authorized designee, or any designee of the Board of County Commissioners, empowered to enforce a county ordinance or regulation.

(5) "Department" means the Department of Community Development (DCD).

(6) "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a county regulation.

(7) "Emergency" means a situation which, in the opinion of the Director, requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

(8) "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed motor vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell second-hand vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), which may be sold to a licensed motor vehicle wrecker or disposed of at a public facility for waste disposal.

(9) "Junk Motor Vehicle" means a motor vehicle 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 buildup of debris that obstructs use, broken window or windshield; missing wheels, tires, tail/headlights, or bumpers; missing or

- nonfunctional motor or transmission; or body damage;
- (c) Is apparently inoperable; or
- (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

“Junk Motor Vehicle” does not include a vehicle or part thereof that is stored entirely within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the requirements of RCW 46.80.130;

(10) "Nuisance," "violation" or "nuisance violation" means:

(a) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission, which significantly affects, injures, or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or

(b) The existence of any of the following conditions:

(i) Premises containing visible accumulations of trash, junk, litter, boxes, discarded lumber, ashes, bottles, boxes, building materials which are not properly stored or neatly piled, cans, concrete, crates, empty barrels, dead animals or animal waste, glass, tires, mattresses or bedding, white goods, numerous pieces of broken or discarded furniture and furnishings, old appliances or equipment or any parts thereof, iron or other scrap metal, packing cases or material, plaster, plastic, rags, wire, yard waste or debris, salvage materials or other similar materials, except that kept in garbage cans or containers maintained for regular collection. Nothing in this subsection shall prevent the temporary retention of waste in approved, covered receptacles;

(ii) Dangerous structures including, but not limited to, any dangerous, decaying, unkempt, falling or damaged dwelling, or other structure;

(iii) Any junk motor vehicle including, but not limited to, any junk motor vehicle, vehicle hulk or any part thereof which is wrecked, inoperable or abandoned, or any disassembled trailer, house trailer, or part thereof, with one exception:

(A) A property may store up to six junk motor vehicles on private property outside of a permitted building, only if the vehicles are: 1) completely screened (as defined in KCC 9.56.020(17)) by sight-obscuring fence or natural vegetation to the satisfaction of the Director (a covering such as a tarp over the vehicles will not constitute an acceptable visual barrier); or 2) more than two-hundred and fifty feet away from all property lines. The owner of any such screened junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the Department regarding the property where such vehicle(s) will be located or stored, as set forth in KCC 9.56.070. Any junk motor vehicle that is stored outside on private property without an approved environmental mitigation agreement with the Department shall be considered a nuisance in accordance with this chapter;

(iv) Vehicle lots without approved land use;

(v) Attractive Nuisances. Any nuisance defined in this

subsection which is detrimental to children, whether in or on a building, on the premises of a building, or upon an unoccupied lot, which is left in any place exposed or accessible to children including, but not limited to, unused or abandoned refrigerators, freezers, or other large appliances or equipment or any parts thereof; abandoned motor vehicles; any structurally unsound or unsafe fence or edifice; any unsecured or abandoned excavation, pit, well, cistern, storage tank or shaft; and any lumber, trash, debris or vegetation which may prove a hazard for minors;

(vi) Obstructions to the public right-of-way including, but not limited to, use of property abutting a public street or sidewalk or use of a public street or sidewalk which causes any obstruction to traffic or to open access to the streets or sidewalks. This subsection shall not apply to events, parades, or the use of the streets or public rights-of-way when authorized by the county. This section includes the existence of drainage onto or over any sidewalk, street or public right-of-way, and the existence of any debris or plant growth on sidewalks adjacent to any property, and any personal property and/or solid waste that has been placed onto a public right-of-way pursuant to a court-ordered eviction per RCW Chapter 59 which has not been removed after 24 hours;

(vii) Illegal dumping including, but not limited to, dumping of any type by any person on public or private property not designated as a legal dump site; and

(viii) Dumping in waterways including, but not limited to, dumping, depositing, placing or leaving of any garbage, ashes, debris, gravel, earth, rock, stone or other material upon the banks, channels, beds or bars of any navigable water, or the felling of any tree or trees, so that the same shall in whole or in part project within the high water bank of any navigable watercourse, or the casting, placing, depositing or leaving of any logs, roots, snags, stumps or brush upon the banks or in the bed or channel of any navigable watercourse, unless otherwise approved by the appropriate governmental agency.

(11) "Omission" means a failure to act.

(12) "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

(13) "Person responsible for the violation" means any person who has an interest in or resides on the property where the alleged violation is occurring, whether as owner, tenant, occupant, or otherwise.

(14) "Repeat violation" means a violation of the same regulation in any location by the same person, for which voluntary compliance previously has been sought or a notice of abatement has been issued, within the immediately preceding twelve consecutive month period.

(15) "Scrap" means any manufactured metal or vehicle parts useful only as material for reprocessing.

(16) "Scrap processor" means a licensed establishment that maintains a hydraulic baler and shears, or a shredder for recycling salvage.

(17) "Screened" means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way.

(18) "Vehicle" means every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway. Motorcycles shall be considered vehicles for the purposes of this chapter. Mopeds and bicycles shall not be considered vehicles for the purposes of this chapter.

(19) "Vehicle lot" means a single tax parcel where more than ten vehicles are regularly stored without approved land use by the Department.

(20) "Violation" means a violation that constitutes a nuisance under this chapter for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.

(21) "Violations hearing examiner" means a hearing examiner employed by the Board of County Commissioners and authorized to enforce the provisions of this chapter.

Section 9.56.030 Voluntary correction.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, he or she shall attempt to secure voluntary correction by contacting the person responsible for the alleged violation and, where possible, explaining the violation and requesting correction.

(b) Voluntary Correction Agreement. The person responsible for the alleged violation may enter into a voluntary correction agreement with the county, acting through the Director.

(i) Content. The voluntary correction agreement is a contract between the county and the person responsible for the violation in which such person agrees to abate the alleged violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(A) The name and address of the person responsible for the alleged violation;

(B) The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(C) A description of the alleged violation and a reference to the regulation which has been violated;

(D) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(E) An agreement by the person responsible for the alleged violation that the county may enter the property and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;

(F) An agreement by the person responsible for the alleged violation that the county 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 person responsible for the alleged violation if the terms of the voluntary correction agreement are not satisfied; and

(G) An agreement that by entering into the voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the alleged violation and/or the required corrective action.

(ii) Right to a Hearing Waived. By entering into a voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.

(iii) Extension and Modification. The Director may grant an extension of the time limit for correction or a modification of the required corrective action if the person responsible for the alleged violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances have delayed correction under the original conditions.

(iv) Abatement by the County. The county may abate the alleged violation in accordance with KCC 9.56.060 if all terms of the voluntary correction agreement are not met.

(v) Collection of Costs. If all terms of the voluntary correction agreement are not met, the person responsible for the alleged violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with KCC 9.56.040(5), plus all costs and expenses of abatement, as set forth in KCC 9.56.060(4) and allowed by RCW 35.80.030.

Section 9.56.035 Prerequisite to notice of abatement.

Absent conditions which pose an immediate threat to the public health, safety or welfare of the environment, the procedures for abatement of conditions constituting a nuisance pursuant to this chapter should be utilized by the county only after correction of such conditions has been attempted through use of the civil infraction process, as specified in Title 17 and Chapter 2.116 of the Kitsap County Code. Once it has been determined by the county that correction of such conditions has not been adequately achieved through use of the civil infraction process, then the county shall proceed with abatement of such conditions pursuant to the provisions of this chapter.

Section 9.56.040 Notice of abatement.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction pursuant to KCC 9.56.030, he or she may issue a notice of abatement to the person responsible for the alleged violation.

(b) Under the following circumstances the Director may issue a notice of abatement without having attempted to secure voluntary correction as provided in KCC 9.56.030:

- (i) When an emergency exists;
- (ii) When a repeat violation occurs;

(iii) When the violation creates a situation or condition which cannot be corrected;

(iv) When the person responsible for the violation knew or reasonably should have known that the action was in violation of a county regulation; or

(v) When the person responsible for the violation cannot be contacted when reasonable attempts to contact the person have failed, or the person refuses to communicate or cooperate with the county in correcting the alleged violation.

(2) Content. The notice of abatement shall include the following:

(a) The name and address of the person responsible for the alleged violation;

(b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(c) A description of the violation and a reference to the provision(s) of the county regulation(s) which has been allegedly violated;

(d) The required corrective action and a date and time by which the correction must be completed and after which, the county may abate the unlawful condition in accordance with KCC 9.56.060;

(e) The date, time and location of an appeal hearing before the violations hearing examiner which will be at least twenty, but no more than sixty days from the date of the notice of abatement, unless such date is continued by the violations hearing examiner for good cause shown;

(f) A statement indicating that the hearing will be canceled and no monetary penalty will be assessed, if the Director approves the completed, required corrective action prior to the hearing; and

(g) A statement that the costs and expenses of abatement incurred by the county pursuant to KCC 9.56.060(4), and a monetary penalty in an amount per day for each violation as specified in KCC 9.56.040(5), may be assessed against the person to whom the notice of abatement is directed as specified and ordered by the violations hearing examiner.

(3) Service of Notice. The Director shall serve the notice of abatement upon the person responsible for the alleged violation, either personally or by mailing a copy of the notice by certified or registered mail, with a five-day return receipt requested, to such person at their last known address. If the person responsible for the violation cannot be personally served within Kitsap County, and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of abatement conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail. If the person responsible for the alleged violation is a tenant, a copy of the notice of abatement shall also be mailed to the landlord or owner of the property where the alleged violation is occurring. If the alleged violation involves a junk motor vehicle, notice shall be provided to the last registered and legal owner of record of said vehicle (unless the

vehicle is in such condition that identification numbers are not available to determine ownership), as well as to the property owner of record, as shown on the last equalized assessment roll.

(4) Extension. Extensions of the time specified in the notice of abatement for correction of the alleged violation may be granted at the discretion of the Director or by order of the violations hearing examiner.

(5) Monetary Penalty. The monetary penalty for each violation of this chapter is \$250.00 per day or portion thereof.

(6) Continuing Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of abatement was issued of the duty to correct the alleged violation.

(7) Collection of Monetary Penalty.

(a) A monetary penalty imposed pursuant to KCC 9.56.040(5) constitutes a personal obligation of the person to whom the notice of abatement is directed. The monetary penalty must be paid to the county within ten calendar days from either the date of mailing of the violations hearing examiner's decision following a hearing, or the date of mailing the violations hearing examiner's default order if the person responsible for the violation failed to appear for the hearing. Any such monetary penalty also constitutes a lien against the affected real property, in the manner set forth in KCC 9.56.060(6).

(b) The prosecuting attorney is authorized to take appropriate action to collect the monetary penalty.

Section 9.56.050 Hearing before the violations hearing examiner.

(1) Notice. A person to whom a notice of abatement is issued will be scheduled to appear before the violations hearing examiner not less than twenty, nor more than sixty calendar days after the notice of abatement is issued. Continuances may be granted at the discretion of the Director, or by the violations hearing examiner for good cause.

(2) Prior Correction of Violation. The hearing will be canceled and no monetary penalty will be assessed, if the Director approves the completed required corrective action prior to the scheduled hearing.

(3) Procedure. The violations hearing examiner shall conduct a hearing on the notice of abatement and alleged violation pursuant to hearing examiner procedures approved by the Board of County Commissioners.

(a) Junk motor vehicles placed or abandoned on private property. If a junk motor vehicle is placed or abandoned on private property without the consent of the property owner, the owner of the property on which the 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/her reasons for denial. If it is determined by the violations hearing examiner that the vehicle was placed on the property without the consent of the property owner and that he/she has not subsequently acquiesced in its presence, then the costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located, or otherwise collected from the property owner.

(4) Hearing decision. At the conclusion of the hearing on the violation, the violations hearing examiner shall either: 1) affirm the issuance of the notice of abatement if he or she determines by a preponderance of the evidence that the violation exists substantially as stated in the notice of abatement; 2) dismiss the notice of abatement and grant the appeal if he or she determines that the violation does not exist substantially as stated in the notice of abatement; or 3) modify the abatement depending on the specifics of the violation. A copy of the violations hearing examiner's ruling shall be mailed to the person found responsible for the violation, the county, and if the person responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(5) Monetary penalties. The violations hearing examiner may assess monetary penalties in accordance with KCC 9.56.040(5).

(a) The violations hearing examiner has the following options in assessing monetary penalties:

(i) Assess monetary penalties beginning on the date the notice of abatement was issued and thereafter;

(ii) Assess monetary penalties beginning on the correction date set by the Director, or an alternate correction date set by the violations hearing examiner and thereafter;

(iii) Assess less than the established monetary penalty set forth in KCC 9.56.040(5), based on the criteria of KCC 9.56.050(5)(b); or

(iv) Assess no monetary penalties.

(b) In determining the monetary penalty assessment, the violations hearing examiner shall consider the following factors:

(i) Whether the person to whom the notice of abatement was issued responded to attempts to contact the person, and cooperated to correct the violation;

(ii) Whether the person failed to appear at the hearing;

(iii) Whether the violation was a repeat violation;

(iv) Whether the person showed due diligence and/or substantial progress in correcting the violation; and

(v) Any other relevant factors.

(c) The violations hearing examiner may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations, the violations hearing examiner shall consider the factors set forth in KCC 9.56.050(5)(b).

(6) Failure to Appear. If the person to whom the notice of abatement was issued fails to appear at the scheduled hearing, the violations hearing examiner will enter an order of default with findings pursuant to KCC 9.56.050(4) and assess the appropriate monetary penalty pursuant to KCC 9.56.050(5). The county may enforce the violations hearing examiner's order and recover all related expenses, including attorney fees, plus the costs of the hearing and any monetary penalty from the person to whom the notice of abatement was issued. A copy of the order of default shall be mailed to the person to whom the notice of abatement was issued and against whom the default order was entered, the county, and if the person found responsible for

the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(7) Time Period for Correction. If a notice of abatement is affirmed by the violations hearing examiner, the person responsible for the violation shall have thirty days to abate the violation and bring the property into compliance with the terms of this ordinance or the county may perform the abatement required therein, and shall bill the costs in the manner provided in Section 9.56.060 of this chapter.

(8) Judicial Review. Any person with standing to bring a land use petition under Chapter 36.70C RCW, including the county, may seek review of the violations hearing examiner's decision by filing a land use petition in superior court and complying with all requirements of Chapter 36.70C RCW.

Section 9.56.060 Abatement by the county.

(1) The county may abate a condition which constitutes a nuisance under this chapter when:

(a) The terms of the voluntary correction agreement pursuant to KCC 9.56.030 have not been met;

(b) A notice of abatement has been issued pursuant to KCC 9.56.040, a hearing has been held pursuant to KCC 9.56.050, and the required correction has not been completed by the date specified in the violations hearing examiner's order; or

(c) The condition is subject to summary abatement as provided for in KCC 9.56.060(2).

(2) Summary Abatement. Whenever any nuisance causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the county may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. If the person responsible for the violation is a tenant, notice of such abatement shall also be given to the landlord or owner of the property where the violation is occurring. No right of action shall lie against the county or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the county be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person responsible for the violation.

(3) Authorized Action by the County. Using any lawful means, the county may enter upon the subject property and may remove or correct the condition that is subject to abatement. The county may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

(a) Removal of junk motor vehicles, vehicle hulk or parts thereof. If the owner or person found responsible for a nuisance involving a junk motor vehicle, vehicle hulk or any parts thereof fails to correct his/her nuisance within the date specified in the violations hearing examiner's order or notice of summary abatement, the county, upon notification from the Director, may enter the subject property to inspect and certify that a vehicle meets the criteria of a junk motor vehicle as defined in this chapter. The law enforcement officer or county agent

making the certification shall record the make and vehicle identification number or license number of the vehicle if available and/or legible, and shall also document in detail the damage or missing equipment to verify whether the approximate value of the vehicle is equivalent only to the approximate value of the scrap in it (only if that is one of the definitional criteria that was alleged in the notice of abatement issued by the county). The vehicle shall then be photographed by the officer or county agent, removed from the property by the county, and disposed of by a licensed vehicle wrecker, hulk hauler, or scrap processor with notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been wrecked. The vehicle shall only be disposed of as scrap.

(i) Photographic record. The county shall maintain a photographic record of all abated junk motor vehicles for a period of two years following abatement. At the conclusion of the two-year period, a written report, along with copies of the photographs, shall be forwarded to the Board of County Commissioners.

(4) Recovery of Costs and Expenses. The costs of correcting a condition which constitutes a nuisance under this chapter, including all incidental expenses, shall be billed to the person responsible for the nuisance and/or the owner, lessor, tenant or any other person entitled to control the subject property, and shall become due and payable to the county within fifteen calendar days of the date of mailing the billing for abatement. The term "incidental expenses" includes, but is not limited to, personnel costs, both direct and indirect and including attorney's fees; costs incurred in documenting the violation; towing/hauling, storage and removal/disposal expenses; and actual expenses and costs of the county in preparing notices, specifications and contracts associated with the abatement, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. All such costs and expenses shall constitute a lien against the affected property, as set forth in KCC 9.56.060(6).

(5) Interference. Any person who knowingly hinders, delays or obstructs any county employee acting on direction of the Director in the discharge of the county employee's official powers or duties in abating a nuisance under this chapter, shall be guilty of a misdemeanor punishable by imprisonment not exceeding ninety (90) days and/or a fine not exceeding \$1,000.

(6) Lien - Authorized. The county shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall run with the land, but 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 on a parity.

(a) The Director shall cause a claim for lien to be filed for record within ninety days from the later of the date that the monetary penalty is due, the work is completed, or the nuisance abated.

(b) The claim of lien shall contain sufficient information regarding the notice of abatement, as determined by the Director, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

(c) Any such claim of lien shall be verified by the Director, and may be

amended to reflect changed conditions.

Section 9.56.070 Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.

Pursuant to KCC 9.56.020(10)(b)(iii)(A), an environmental mitigation agreement between a property owner and the Department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the Department for a one-time fee of \$10.00 per vehicle, the proceeds from which shall be used to assist with clean up costs associated with this ordinance. In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following two preventative measures:

(1) Each junk motor vehicle must be drained of all oil and other fluids including, but not limited to, engine crankcase oil, transmission fluid, brake fluid and radiator coolant or antifreeze prior to placing the vehicle on site; or

(2) Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle to collect residual fluids.

Either preventative measure shall require that the owner of such vehicle(s) clean up and properly dispose of any visible contamination resulting from the storage of junk motor vehicles. The agreement will require the property owner to select one of the two preventative measures and to allow for an initial inspection of the property by the Department to assure that the preventative measure has been implemented to the satisfaction of the Department. By entering into the agreement, the property owner further agrees to allow the Department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. If a property is found to be in compliance with the terms of the agreement for two consecutive inspections, the Department may waive the annual inspection requirement. A property owner found to be in violation of the agreement may be fined a monetary penalty in accordance with KCC 9.56.040(5), and the property may be deemed a nuisance in accordance with the provisions of this chapter.

Section 9.56.080 Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by this code.

Section 9.56.090 Removal of personal property and/or solid waste placed onto public access.

(1) Once personal property and/or solid waste belonging to an evicted tenant has been placed onto public right-of-way pursuant to a court-ordered eviction per Chapter 59 RCW, the evicted tenant/owner of the personal property and/or solid waste or his/her designee shall have twenty-four hours to remove said personal property and/or solid waste from the public right-of-way. Notice of such removal after twenty-four hours shall be given to the evicted tenant/owner of the personal property and/or solid waste or his/her designee. If, after twenty-

four hours, the evicted tenant/owner or his/her designee has not removed the personal property and/or solid waste from the public right-of-way, the property shall be deemed a nuisance, and the landlord/property owner or his/her designee shall remove the personal property and/or solid waste for proper disposal within forty-eight hours or the county shall seek to abate the nuisance, pursuant to KCC 9.56.060, to be billed to the landlord/property owner or his/her designee.

Section 9.56.100 Conflicts.

In the event of a conflict between this chapter and any other provision of the Kitsap County Code or other county ordinance providing for a civil penalty, this chapter shall control.

Section 9.56.110 Representation by Attorney.

(1) A person subject to proceedings under this chapter may appear on his or her own behalf or be represented by counsel.

(2) The prosecuting attorney representing the county may, but need not, appear in any proceedings under this chapter.

Section 2. Severability. If any section, subsection, clause or phrase of this ordinance or amendment thereto, or its application to any person, entity or circumstance, is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

Section 3. Effective Date. This ordinance shall take effect immediately.

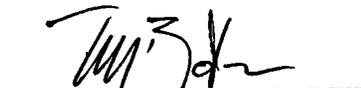
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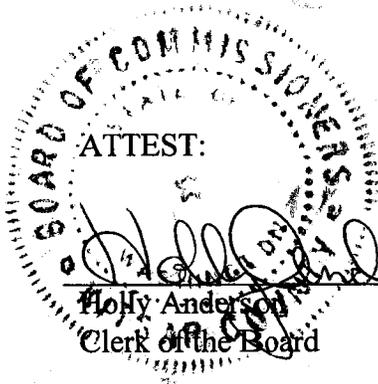
KITSAP COUNTY BOARD OF COMMISSIONERS


Chris Endresen, Chair

NOT PRESENT

Jan Angel, Commissioner


Tim Botkin, Commissioner





Meeting Date: Monday, October 22, 2001

Agenda Item No.

10:00 E

Kitsap County Board of Commissioners

Department: Department of Community Development

Staff Contact: Eric Baker, Manager of Kitsap County Code Enforcement

Title: Ordinance Relating to the Abatement of Conditions Which Constitute a Public Nuisance and Adding a New Chapter 9.56, "Public Nuisances," to the Kitsap County Code.

Recommended Action: Move that the Board of Commissioners approve this ordinance.

Summary: The Public Nuisance Ordinance relates to the abatement of conditions which constitute a public nuisance and adding a new chapter 9.56, "Public Nuisances" to the Kitsap County Code. The purpose of the chapter is to establish an efficient system to enforce the land use and public health regulations of the county, and to provide an opportunity for a prompt hearing before a violations hearing examiner employed by the Kitsap County Board of County Commissioners and decision on alleged violations, and to establish penalties for violations, including abatement of violations.

Included in the definition of public nuisance is the existence of the following conditions: trash covered premises; dangerous structures; broken or discarded furniture, household equipment and furnishings in any yard or vacant lot; junk vehicles; attractive nuisances; obstructions to the public right-of-way; vegetation posing risk of damage or injury; illegal dumping and dumping in waterways. The chapter provides a method for property owners to enter into a voluntary correction agreement with the county to remedy violations constituting a public nuisance, and a means for the county to efficiently abate nuisances that are not corrected through the voluntary correction process or that constitute an emergent risk to public safety.

The following changes have been made to the ordinance since the last public hearing on August 27, 2001:

- 1) Obnoxious odors and vermin habitat were removed from the ordinance to alleviate concerns raised by farmers and rural residents regarding the effect this ordinance may have on them.
- 2) Definition of building was changed.
- 3) Removed term "annoys." Replaced with "significantly affects."
- 4) Cleaned up repetitive language in definition section of what constitutes a nuisance. See Section 9.56.020(10)(B).
- 5) Added provision that the six allowable junk motor vehicles on a property can either be properly screened or can be located more than 250-feet from any property line. This will allow owners in rural areas on big parcels to screen their junk vehicles by distance alone. Did not add rural/urban designation, as the definition is constantly changing and this ordinance would have to be regularly amended to reflect such changes. The 250-foot designation will remedy the rural/urban designation.
- 6) Brought environmental mitigation review provisions into compliance with BKCHD regs., as was requested by the Health District. Added provision that if a property is found to be in compliance for two consecutive inspections, the inspection requirement can be waived by the Department.

Remaining issues for BCC to consider:

1) The \$10 administrative fee collected from environmental mitigation agreements. Shall this fee to be placed into the general fund to alleviate the administrative costs incurred by DCD in enforcing these agreements, or shall these fees be placed into a special account to be utilized towards assisting citizens with clean up costs?

2) A request was made by the BCC to add a definition of "valid complaint" to the ordinance. However, the term "complaint" is not used in the ordinance, so this would not assist with clarifying the type of complaints that will be investigated by the Department.

3) A question was raised by the BCC re: allowing citizens extensions of time to clean up problematic properties if the citizen is working in good faith to clean up but needs extra time. As the process stands now, the citizen would have over six months to clean up, and can be allowed additional time by either the Department or the Hearing Examiner. See Section 9.56. 030(1)(b)(iii); 040(4).

Attachments: Duplicate originals and 7 copies of the Ordinance.

Fiscal Impact

Expenditure Required:	Unknown
Amount Budgeted:	Unknown
Total Cost:	Unknown
New Appropriation Required:	Unknown
Revenue Generated:	Unknown
Cost Savings:	Unknown
Net Fiscal Impact:	Unknown

Clearances

Affected Departments	Department Representative
Prosecutor's Office	Kathryn Portteus 
Sheriff's Office	Deputy Jim Gastineau
Contract Info:	n/a

(Revisions as of 10/11/01)

ORDINANCE NO. _____

RELATING TO THE ABATEMENT OF CONDITIONS WHICH CONSTITUTE
A PUBLIC NUISANCE AND ADDING A NEW CHAPTER 9.56, "PUBLIC NUISANCES,"
TO THE KITSAP COUNTY CODE

WHEREAS, Chapter 35.80 RCW authorizes the County to adopt ordinances relating to unfit dwellings, structures, and premises; and

WHEREAS, Chapter 46.55 RCW authorizes the County to adopt ordinances establishing procedures for the abatement and removal of junk vehicles or parts thereof as public nuisances; and

WHEREAS, the conditions outlined in RCW 35.80.010 and RCW 46.55.240 concerning unfit dwellings, buildings, structures and junk vehicles exist within Kitsap County; and

WHEREAS, the public health, safety, and welfare require that the County establish procedures for the correction or removal of such conditions;

NOW, THEREFORE, BE IT ORDAINED:

NEW SECTION. Section 1. A new Chapter 9.56, "Public Nuisances" is added to Kitsap County Code as follows:

Sections:

- | | |
|-----------------|---|
| 9.56.010 | Purpose. |
| 9.56.020 | Definitions. |
| 9.56.030 | Voluntary correction. |
| 9.56.035 | Prerequisite to notice of abatement. |
| 9.56.040 | Notice of abatement. |
| 9.56.050 | Hearing before the violations hearing examiner. |
| 9.56.060 | Abatement by the county. |
| 9.56.070 | Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property. |
| 9.56.080 | Additional enforcement procedures. |
| 9.56.090 | Removal of personal property and/or solid waste placed onto public access. |
| 9.56.100 | Conflicts. |
| 9.56.110 | Representation by Attorney. |

Section 9.56.010 Purpose.

This chapter provides for the abatement of conditions which constitute a public nuisance where premises, structures, vehicles, or portions thereof are found to be unfit for human habitation, or unfit for other uses, due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of Kitsap County.

Section 9.56.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

(1) "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a nuisance under this chapter by such means, in such a manner, and to such an extent as the Director determines is necessary in the interest of the general health, safety and welfare of the community.

(2) "Act" means doing or performing something.

(3) "Building" means a any legally constructed structure consisting of a minimum of three sides and a roof, erected pursuant to the Kitsap County Building Code.

(4) "Director" means the director of the department of community development, or the director of the department of public works, or their authorized designee, or any designee of the Board of County Commissioners, empowered to enforce a county ordinance or regulation.

(5) "Department" means the department of community development (DCD).

(6) "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a county regulation.

(7) "Emergency" means a situation which, in the opinion of the Director, requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

(8) "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed motor vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell second-hand vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), which may be sold to a licensed motor vehicle wrecker or disposed of at a public facility for waste disposal.

(9) "Junk Motor Vehicle" means a motor vehicle 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

buildup of debris that obstructs use, broken window or windshield; missing wheels, tires, tail/headlights, or bumpers; missing or nonfunctional motor or transmission; or body damage;

- (c) Is apparently inoperable; or
- (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

“Junk Motor Vehicle” does not include a vehicle or part thereof that is ~~completely enclosed~~ stored entirely within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the requirements of RCW 46.80.130;

(10) "Nuisance," "violation" or "nuisance violation" means:

(a) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission, which ~~annoys~~ significantly affects, injures, or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or

(b) The existence of any of the following conditions:

(i) Premises containing visible accumulations of trash, junk, litter, boxes, discarded lumber, ashes, bottles, boxes, building materials which are not properly stored or neatly piled, cans, concrete, crates, empty barrels, dead animals or animal waste, glass, tires, mattresses or bedding, white goods, numerous pieces of broken or discarded furniture and furnishings, old appliances or equipment or any parts thereof, iron or other scrap metal, packing cases or material, plaster, plastic, rags, wire, yard waste or debris, salvage materials or other similar materials, except that kept in garbage cans or containers maintained for regular collection, or obnoxious odors. Nothing in this subsection shall prevent the temporary retention of waste in approved, covered receptacles;

(ii) Dangerous structures including, but not limited to, any dangerous, decaying, unkempt, falling or damaged dwelling, or other structure;

~~(iii) White goods, numerous pieces of broken or discarded furniture and furnishings in any yard or vacant lot;~~

~~(iv) Any accumulation of material on a property which constitutes potential vermin habitat or fire hazard including, but not limited to, animal matter, ashes, bottles, boxes, building materials which are not properly stored or neatly piled, cans, concrete, crates, empty barrels, dead animals or animal waste, glass, litter, mattresses or bedding, old appliances or equipment or any parts thereof, furniture, iron or other scrap metal, packing cases, packing material, plaster, plastic, rags, wire, yard waste or debris or other objects which endanger property or public safety, or constitute a fire hazard or potential vermin habitat. Nothing in this subsection shall prevent the temporary retention of waste in approved, covered receptacles;~~

~~(v)~~ (iii) Any junk motor vehicle including, but not limited to, any junk motor vehicle, vehicle hulk or any part thereof which is wrecked, inoperable or abandoned, or any disassembled trailer, house trailer, or part thereof, with one exception:

(A) A property may store up to six junk motor vehicles on private property outside of a permitted building, only if the vehicles are: 1) completely screened (as defined in KCC 9.56.020(17)) by sight-obscuring fence or natural vegetation to the satisfaction of the Director (a covering such as a tarp over the vehicles will not constitute an acceptable visual barrier); or 2) more than two-hundred and fifty feet away from all property lines. The owner of any such screened junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the Department regarding the property where such vehicle(s) will be located or stored, as set forth in KCC 9.56.070. Any junk motor vehicle that is stored outside on private property without an approved environmental mitigation agreement with the Department shall be considered a nuisance in accordance with this chapter;

(vi) Vehicle lots without approved land use;

(vii) Attractive Nuisances. Any nuisance defined in this subsection which is detrimental to children, whether in or on a building, on the premises of a building, or upon an unoccupied lot, which is left in any place exposed or accessible to children including, but not limited to, unused or abandoned refrigerators, freezers, or other large appliances or equipment or any parts thereof; abandoned motor vehicles; any structurally unsound or unsafe fence or edifice; any unsecured or abandoned excavation, pit, well, cistern, storage tank or shaft; and any lumber, trash, debris or vegetation which may prove a hazard for minors;

(viii) Obstructions to the public right-of-way including, but not limited to, use of property abutting a public street or sidewalk or use of a public street or sidewalk which causes any obstruction to traffic or to open access to the streets or sidewalks. This subsection shall not apply to events, parades, or the use of the streets or public rights-of-way when authorized by the county. This section includes the existence of drainage onto or over any sidewalk, street or public right-of-way, and the existence of any debris or plant growth on sidewalks adjacent to any property, and any personal property and/or solid waste that has been placed onto a public right-of-way pursuant to a court-ordered eviction per RCW Chapter 59 which has not been removed after 24 hours;

(ix) Illegal dumping including but not limited to, dumping of any type by any person on public or private property not designated as a legal dump site; and

(x) Dumping in waterways including, but not limited to, dumping, depositing, placing or leaving of any garbage, ashes, debris, gravel, earth, rock, stone or other material upon the banks, channels, beds or bars of any navigable water, or the felling of any tree or trees, so that the same shall in whole or in part project within the high water bank of any navigable watercourse, or the casting, placing, depositing or leaving of any logs, roots, snags, stumps or brush upon the banks or in the bed or channel of any navigable watercourse, unless otherwise approved by the appropriate governmental agency.

(11) "Omission" means a failure to act.

(12) "Person" means any individual, firm, association, partnership,

corporation or any entity, public or private.

(13) "Person responsible for the violation" means any person who has an interest in or resides on the property where the alleged violation is occurring, whether as owner, tenant, occupant, or otherwise.

(14) "Repeat violation" means a violation of the same regulation in any location by the same person, for which voluntary compliance previously has been sought or a notice of abatement has been issued, within the immediately preceding twelve consecutive month period.

(15) "Scrap" means any manufactured metal or vehicle parts useful only as material for reprocessing.

(16) "Scrap processor" means a licensed establishment that maintains a hydraulic baler and shears, or a shredder for recycling salvage.

(17) "Screened" means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way.

(18) "Vehicle" means every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway. Motorcycles shall be considered vehicles for the purposes of this chapter. Mopeds and bicycles shall not be considered vehicles for the purposes of this chapter.

(19) "Vehicle lot" means a single tax parcel where more than ten vehicles are regularly stored without approved land use by the Department.

(20) "Violation" means a violation that constitutes a nuisance under this chapter for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.

(21) "Violations hearing examiner" means a hearing examiner employed by the Board of County Commissioners and authorized to enforce the provisions of this chapter.

Section 9.56.030 Voluntary correction.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, he or she shall attempt to secure voluntary correction by contacting the person responsible for the alleged violation and, where possible, explaining the violation and requesting correction.

(b) Voluntary Correction Agreement. The person responsible for the alleged violation may enter into a voluntary correction agreement with the county, acting through the Director.

(i) Content. The voluntary correction agreement is a contract between the county and the person responsible for the violation in which such person agrees to abate the alleged violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(A) The name and address of the person responsible for the alleged violation;

(B) The street address or other description sufficient for

identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(C) A description of the alleged violation and a reference to the regulation which has been violated;

(D) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(E) An agreement by the person responsible for the alleged violation that the county may enter the property and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;

(F) An agreement by the person responsible for the alleged violation that the county 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 person responsible for the alleged violation if the terms of the voluntary correction agreement are not satisfied; and

(G) An agreement that by entering into the voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the alleged violation and/or the required corrective action.

(ii) Right to a Hearing Waived. By entering into a voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.

(iii) Extension and Modification. The Director may grant an extension of the time limit for correction or a modification of the required corrective action if the person responsible for the alleged violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances have delayed correction under the original conditions.

(iv) Abatement by the County. The county may abate the alleged violation in accordance with KCC 9.56.060 if all terms of the voluntary correction agreement are not met.

(v) Collection of Costs. If all terms of the voluntary correction agreement are not met, the person responsible for the alleged violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with KCC 9.56.040(5), plus all costs and expenses of abatement, as set forth in KCC 9.56.060(4) and allowed by RCW 35.80.030.

Section 9.56.035 Prerequisite to notice of abatement.

Absent conditions which pose an immediate threat to the public health, safety or welfare of the environment, the procedures for abatement of conditions constituting a nuisance pursuant to this chapter should be utilized by the county only after correction of such conditions has been attempted through use of the civil infraction process, as specified in Title 17 and Chapter 2.116 of the Kitsap County Code. Once it has been determined by the county that

correction of such conditions has not been adequately achieved through use the civil infraction process, then the county shall proceed with abatement of such conditions pursuant to the provisions of this chapter.

Section 9.56.040 Notice of abatement.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction pursuant to KCC 9.56.030, he or she may issue a notice of abatement to the person responsible for the alleged violation.

(b) Under the following circumstances the Director may issue a notice of abatement without having attempted to secure voluntary correction as provided in KCC 9.56.030:

(i) When an emergency exists;
(ii) When a repeat violation occurs;
(iii) When the violation creates a situation or condition which cannot be corrected;

(iv) When the person responsible for the violation knew or reasonably should have known that the action was in violation of a county regulation; or

(v) When the person responsible for the violation cannot be contacted when reasonable attempts to contact the person have failed, or the person refuses to communicate or cooperate with the county in correcting the alleged violation.

(2) Content. The notice of abatement shall include the following:

(a) The name and address of the person responsible for the alleged violation;

(b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(c) A description of the violation and a reference to the provision(s) of the county regulation(s) which has been allegedly violated;

(d) The required corrective action and a date and time by which the correction must be completed and after which, the county may abate the unlawful condition in accordance with KCC 9.56.060;

(e) The date, time and location of an appeal hearing before the violations hearing examiner which will be at least twenty, but no more than sixty days from the date of the notice of abatement, unless such date is continued by the violations hearing examiner for good cause shown;

(f) A statement indicating that the hearing will be canceled and no monetary penalty will be assessed, if the Director approves the completed, required corrective action prior to the hearing; and

(g) A statement that the costs and expenses of abatement incurred by the county pursuant to KCC 9.56.060(4), and a monetary penalty in an amount per day for each violation as specified in KCC 9.56.040(5), may be assessed against the person to whom the

notice of abatement is directed as specified and ordered by the violations hearing examiner.

(3) Service of Notice. The Director shall serve the notice of abatement upon the person responsible for the alleged violation, either personally or by mailing a copy of the notice by certified or registered mail, with a five-day return receipt requested, to such person at their last known address. If the person responsible for the violation cannot be personally served within Kitsap County, and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of abatement conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail. If the person responsible for the alleged violation is a tenant, a copy of the notice of abatement shall also be mailed to the landlord or owner of the property where the alleged violation is occurring. If the alleged violation involves a junk motor vehicle, notice shall be provided to the last registered and legal owner of record of said vehicle (unless the vehicle is in such condition that identification numbers are not available to determine ownership), as well as to the property owner of record, as shown on the last equalized assessment roll.

(4) Extension. Extensions of the time specified in the notice of abatement for correction of the alleged violation may be granted at the discretion of the Director or by order of the violations hearing examiner.

(5) Monetary Penalty. The monetary penalty for each violation of this chapter is \$250.00 per day or portion thereof.

(6) Continuing Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of abatement was issued of the duty to correct the alleged violation.

(7) Collection of Monetary Penalty.

(a) A monetary penalty imposed pursuant to KCC 9.56.040(5) constitutes a personal obligation of the person to whom the notice of abatement is directed. The monetary penalty must be paid to the county within ten calendar days from either the date of mailing of the violations hearing examiner's decision following a hearing, or the date of mailing the violations hearing examiner's default order if the person responsible for the violation failed to appear for the hearing. Any such monetary penalty also constitutes a lien against the affected real property, in the manner set forth in KCC 9.56.060(6).

(b) The prosecuting attorney is authorized to take appropriate action to collect the monetary penalty.

Section 9.56.050 Hearing before the violations hearing examiner.

(1) Notice. A person to whom a notice of abatement is issued will be scheduled to appear before the violations hearing examiner not less than twenty, nor more than sixty calendar days after the notice of abatement is issued. Continuances may be granted at the discretion of the Director, or by the violations hearing examiner for good cause.

(2) Prior Correction of Violation. The hearing will be canceled and no monetary

penalty will be assessed, if the Director approves the completed required corrective action prior to the scheduled hearing.

(3) Procedure. The violations hearing examiner shall conduct a hearing on the notice of abatement and alleged violation pursuant to hearing examiner procedures approved by the Board of County Commissioners.

(a) Junk motor vehicles placed or abandoned on private property. If a junk motor vehicle is placed or abandoned on private property without the consent of the property owner, the owner of the property on which the 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/her reasons for denial. If it is determined by the violations hearing examiner that the vehicle was placed on the property without the consent of the property owner and that he/she has not subsequently acquiesced in its presence, then the costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located, or otherwise collected from the property owner.

(4) Hearing decision. At the conclusion of the hearing on the violation, the violations hearing examiner shall either: 1) affirm the issuance of the notice of abatement if he or she determines by a preponderance of the evidence that the violation exists substantially as stated in the notice of abatement; 2) dismiss the notice of abatement and grant the appeal if he or she determines that the violation does not exist substantially as stated in the notice of abatement; or 3) modify the abatement depending on the specifics of the violation. A copy of the violations hearing examiner's ruling shall be mailed to the person found responsible for the violation, the county, and if the person responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(5) Monetary penalties. The violations hearing examiner may assess monetary penalties in accordance with KCC 9.56.040(5).

(a) The violations hearing examiner has the following options in assessing monetary penalties:

(i) Assess monetary penalties beginning on the date the notice of abatement was issued and thereafter;

(ii) Assess monetary penalties beginning on the correction date set by the Director, or an alternate correction date set by the violations hearing examiner and thereafter;

(iii) Assess less than the established monetary penalty set forth in KCC 9.56.040(5), based on the criteria of KCC 9.56.050(5)(b); or

(iv) Assess no monetary penalties.

(b) In determining the monetary penalty assessment, the violations hearing examiner shall consider the following factors:

(i) Whether the person to whom the notice of abatement was issued responded to attempts to contact the person, and cooperated to correct the violation;

(ii) Whether the person failed to appear at the hearing;

(iii) Whether the violation was a repeat violation;

(iv) Whether the person showed due diligence and/or substantial

progress in correcting the violation; and

(v) Any other relevant factors.

(c) The violations hearing examiner may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations, the violations hearing examiner shall consider the factors set forth in KCC 9.56.050(5)(b).

(6) Failure to Appear. If the person to whom the notice of abatement was issued fails to appear at the scheduled hearing, the violations hearing examiner will enter an order of default with findings pursuant to KCC 9.56.050(4) and assess the appropriate monetary penalty pursuant to KCC 9.56.050(5). The county may enforce the violations hearing examiner's order and recover all related expenses, including attorney fees, plus the costs of the hearing and any monetary penalty from the person to whom the notice of abatement was issued. A copy of the order of default shall be mailed to the person to whom the notice of abatement was issued and against whom the default order was entered, the county, and if the person found responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(7) Time Period for Correction. If a notice of abatement is affirmed by the violations hearing examiner, the person responsible for the violation shall have thirty days to abate the violation and bring the property into compliance with the terms of this ordinance or the county may perform the abatement required therein, and shall bill the costs in manner provided in Section 9.56.060 of this chapter.

(8) Judicial Review. Any person with standing to bring a land use petition under Chapter 36.70C RCW, including the county, may seek review of the violations hearing examiner's decision by filing a land use petition in superior court and complying with all requirements of Chapter 36.70C RCW.

Section 9.56.060 Abatement by the county.

(1) The county may abate a condition which constitutes a nuisance under this chapter when:

(a) The terms of voluntary correction agreement pursuant to KCC 9.56.030 have not been met;

(b) A notice of abatement has been issued pursuant to KCC 9.56.040, a hearing has been held pursuant to KCC 9.56.050, and the required correction has not been completed by the date specified in the violations hearing examiner's order; or

(c) The condition is subject to summary abatement as provided for in KCC 9.56.060(2).

(2) Summary Abatement. Whenever any nuisance causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the county may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. If the person responsible for the violation is a tenant, notice of such abatement shall also be given to the landlord or owner of the property where the violation is occurring. No right of action shall lie

against the county or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the county be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person responsible for the violation.

(3) Authorized Action by the County. Using any lawful means, the county may enter upon the subject property and may remove or correct the condition that is subject to abatement. The county may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

(a) Removal of junk motor vehicles, vehicle hulk or parts thereof. If the owner or person found responsible for a nuisance involving a junk motor vehicle, vehicle hulk or any parts thereof fails to correct his/her nuisance within the date specified in the violations hearing examiner's order or notice of summary abatement, the county, upon notification from the Director, may enter the subject property to inspect and certify that a vehicle meets the criteria of a junk motor vehicle as defined in this chapter. The law enforcement officer or county agent making the certification shall record the make and vehicle identification number or license number of the vehicle if available and/or legible, and shall also document in detail the damage or missing equipment to verify whether the approximate value of the vehicle is equivalent only to the approximate value of the scrap in it (only if that is one of the definitional criteria that was alleged in the notice of abatement issued by the county). The vehicle shall then be photographed by the officer or county agent, removed from the property by the county, and disposed of by a licensed vehicle wrecker, hulk hauler, or scrap processor with notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been wrecked. The vehicle shall only be disposed of as scrap.

(i) Photographic record. The county shall maintain a photographic record of all abated junk motor vehicles for a period of two years following abatement. At the conclusion of the two year period, a written report, along with copies of the photographs, shall be forwarded to the Board of County Commissioners.

(4) Recovery of Costs and Expenses. The costs of correcting a condition which constitutes a nuisance under this chapter, including all incidental expenses, shall be billed to the person responsible for the nuisance and/or the owner, lessor, tenant or any other person entitled to control the subject property, and shall become due and payable to the county within fifteen calendar days of the date of mailing the billing for abatement. The term "incidental expenses" includes, but is not limited to, personnel costs, both direct and indirect and including attorney's fees; costs incurred in documenting the violation; towing/hauling, storage and removal/disposal expenses; and actual expenses and costs of the county in preparing notices, specifications and contracts associated with the abatement, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. All such costs and expenses shall constitute a lien against the affected property, as set forth in KCC 9.56.060(6).

(5) Interference. Any person who knowingly hinders, delays or obstructs any county employee acting on direction of the Director in the discharge of the county employee's official powers or duties in abating a nuisance under this chapter, shall be guilty of a misdemeanor punishable by imprisonment not exceeding ninety (90) days and/or a fine not

exceeding \$1,000.

(6) Lien - Authorized. The county shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall run with the land, but 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 on a parity.

(a) The Director shall cause a claim for lien to be filed for record within ninety days from the later of the date that the monetary penalty is due, the work is completed, or the nuisance abated.

(b) The claim of lien shall contain sufficient information regarding the notice of abatement, as determined by the Director, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

(c) Any such claim of lien shall be verified by the Director, and may be amended to reflect changed conditions.

Section 9.56.070 Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.

Pursuant to KCC 9.56.020(10)(b)(iii)(A), an environmental mitigation agreement between a property owner and the Department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the Department for a one-time fee of \$10.00 per vehicle. In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following two preventative measures:

(1) Each junk motor vehicle must be ~~stored on a concrete or paved surface; or~~ drained of all oil and other fluids including, but not limited to, engine crankcase oil, transmission fluid, brake fluid and radiator coolant or antifreeze prior to placing the vehicle on site; or

~~(2) Each junk motor vehicle must have all of its fluids drained before being placed on the property; or~~

~~(3)~~ (2) Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle to collect residual fluids.

Either preventative measure shall require that the owner of such vehicle(s) clean up and properly dispose of any visible contamination resulting from the storage of junk motor vehicles. The agreement will require the property owner to select one of the ~~three~~ two preventative measures and to allow for an initial inspection of the property by the Department to assure that the preventative measure has been implemented to the satisfaction of the Department. By entering into the agreement, the property owner further agrees to allow the Department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. If a property is found to be in compliance with the terms of the agreement for two consecutive inspections, the Department may waive the annual inspection requirement. A

property owner found to be in violation of the agreement may be fined a monetary penalty in accordance with KCC 9.56.040(5), and the property may be deemed a nuisance in accordance with the provisions of this chapter.

Section 9.56.080 Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by this code.

Section 9.56.090 Removal of personal property and/or solid waste placed onto public access.

(1) Once personal property and/or solid waste belonging to an evicted tenant has been placed onto public right-of-way pursuant to a court-ordered eviction per Chapter 59 RCW, the evicted tenant/owner of the personal property and/or solid waste or his/her designee shall have twenty-four hours to remove said personal property and/or solid waste from the public right-of-way. Notice of such removal after twenty-four hours shall be given to the evicted tenant/owner of the personal property and/or solid waste or his/her designee. If, after twenty-four hours, the evicted tenant/owner or his/her designee has not removed the personal property and/or solid waste from the public right-of-way, the property shall be deemed a nuisance, and the landlord/property owner or his/her designee shall remove the personal property and/or solid waste for proper disposal within forty-eight hours or the county shall seek to abate the nuisance, pursuant to KCC 9.56.060, to be billed to the landlord/property owner or his/her designee.

Section 9.56.100 Conflicts.

In the event of a conflict between this chapter and any other provision of the Kitsap County Code or other county ordinance providing for a civil penalty, this chapter shall control.

Section 9.56.110 Representation by Attorney.

(1) A person subject to proceedings under this chapter may appear on his or her own behalf or be represented by counsel.

(2) The prosecuting attorney representing the county may, but need not, appear in any proceedings under this chapter.

Section 2. Severability. If any section, subsection, clause or phrase of this ordinance or amendment thereto, or its application to any person, entity or circumstance, is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

Section 3. Effective Date. This ordinance shall take effect immediately.

DATED this _____ day of October, 2001.

KITSAP COUNTY BOARD OF COMMISSIONERS

Chris Endresen, Chair

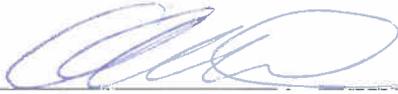
ATTEST:

Jan Angel, Commissioner

Holly Anderson
Clerk of the Board

Tim Botkin, Commissioner

Approved as to form:



Deputy Prosecuting Attorney



10/22/01
Meeting Date: Monday, August 27, 2001
Agenda Item No.

10:00 E

Kitsap County Board of Commissioners

Department: Department of Community Development

Staff Contact: Eric Baker, Manager of Kitsap County Code Enforcement

Title: Ordinance Relating to the Abatement of Conditions Which Constitute a Public Nuisance and Adding a New Chapter 9.56, "Public Nuisances," to the Kitsap County Code. Additionally, an Ordinance amending Title 17 of the Kitsap County Code, "Zoning," pertaining to the storage of junk motor vehicles on private property to correspond to the provisions of the Nuisance Ordinance.

Recommended Action: Move that the Board of Commissioners approve these two ordinances.

Summary: The Public Nuisance Ordinance relates to the abatement of conditions which constitute a public nuisance and adding a new chapter 9.56, "Public Nuisances" to the Kitsap County Code. The purpose of the chapter is to establish an efficient system to enforce the land use and public health regulations of the county, and to provide an opportunity for a prompt hearing before a violations hearing examiner employed by the Kitsap County Board of County Commissioners and decision on alleged violations, and to establish penalties for violations, including abatement of violations.

Included in the definition of public nuisance is the existence of the following conditions: trash covered premises; dangerous structures; broken or discarded furniture, household equipment and furnishings in any yard or vacant lot; potential vermin habitat or fire hazards; junk vehicles; attractive nuisances; obstructions to the public right-of-way; vegetation posing risk of damage or injury; illegal dumping and dumping in waterways. The chapter provides a method for property owners to enter into a voluntary correction agreement with the county to remedy violations constituting a public nuisance, and a means for the county to efficiently abate nuisances that are not corrected through the voluntary correction process or that constitute an emergent risk to public safety.

The second ordinance is written to correspond to the first. Because we are suggesting in the nuisance ordinance that the Board require that the county first attempt the civil infraction process before seeking to abate a problematic property, several sections of the current zoning ordinance, codified in Kitsap County Code Title 17, must be amended to reflect the new provisions of the nuisance ordinance. The only substantial difference between the two ordinances will be the definition of "junk motor vehicle." The definition used in the nuisance ordinance is the state definition and the definition that is being proposed for the zoning ordinance is a more liberal, and therefore more stringent, county definition. The practical result will be if a junk motor vehicle meets the county's definition in the zoning ordinance, the owner can be issued a civil infraction after notice of the alleged violation and order to correct. However, only if the vehicle meets the state definition can it later be abated and destroyed.

Attachments: Duplicate originals and 7 copies of each Ordinance.

Fiscal Impact

Expenditure Required: Unknown
Amount Budgeted: Unknown
Total Cost: Unknown
New Appropriation Required: Unknown
Revenue Generated: Unknown
Cost Savings: Unknown
Net Fiscal Impact: Unknown

Clearances

Affected Departments	Department Representative
Prosecutor's Office	Kathryn Portteus 
Sheriff's Office	Deputy Jim Gastineau
Contract Info:	n/a

(Revisions as of 8/2/01)

ORDINANCE NO. _____

RELATING TO THE ABATEMENT OF CONDITIONS WHICH CONSTITUTE
A PUBLIC NUISANCE AND ADDING A NEW CHAPTER 9.56, "PUBLIC NUISANCES,"
TO THE KITSAP COUNTY CODE

WHEREAS, Chapter 35.80 RCW authorizes the County to adopt ordinances relating to unfit dwellings, structures, and premises; and

WHEREAS, Chapter 46.55 RCW authorizes the County to adopt ordinances establishing procedures for the abatement and removal of junk vehicles or parts thereof as public nuisances; and

WHEREAS, the conditions outlined in RCW 35.80.010 and RCW 46.55.240 concerning unfit dwellings, buildings, structures and junk vehicles exist within Kitsap County; and

WHEREAS, the public health, safety, and welfare require that the County establish procedures for the correction or removal of such conditions;

NOW, THEREFORE, BE IT ORDAINED:

NEW SECTION. Section 1. A new Chapter 9.56, "Public Nuisances" is added to Kitsap County Code as follows:

Sections:

- | | |
|-----------------|--|
| 9.56.010 | Purpose. |
| 9.56.020 | Definitions. |
| 9.56.030 | Voluntary correction. |
| 9.56.035 | <u>Prerequisite to notice of abatement.</u> |
| 9.56.040 | Notice of abatement. |
| 9.56.050 | Hearing before the violations hearing examiner. |
| 9.56.060 | Abatement by the county. |
| 9.56.070 | Additional enforcement procedures. <u>Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.</u> |
| 9.56.080 | Removal of personal property and/or solid waste placed onto public access or private property. <u>Additional enforcement procedures.</u> |
| 9.56.090 | Conflicts. <u>Removal of personal property and/or solid waste placed onto public access.</u> |

9.56.100 ~~Representation by Attorney. Conflicts.~~
9.56.110 Representation by Attorney.

Section 9.56.010 Purpose.

This chapter provides for the abatement of conditions which constitute a public nuisance where premises, structures, vehicles, or portions thereof are found to be unfit for human habitation, or unfit for other uses, due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of Kitsap County.

Section 9.56.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

(1) "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a nuisance under this chapter by such means, in such a manner, and to such an extent as the Director determines is necessary in the interest of the general health, safety and welfare of the community.

(2) "Act" means doing or performing something.

(3) "Building" means a structure consisting of a minimum of three sides and a roof, erected pursuant to the Kitsap County Building Code.

~~(3)~~ (4) "Director" means the director of the department of community development, or the director of the department of public works, or their authorized designee, or any designee of the Board of County Commissioners, empowered to enforce a county ordinance or regulation.

(5) "Department" means the department of community development (DCD).

~~(4)~~ (6) "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a county regulation.

~~(5)~~ (7) "Emergency" means a situation which, in the opinion of the Director, requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

(8) "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed motor vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell second-hand vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), which may be sold to a licensed motor vehicle wrecker or disposed of at a public facility for waste disposal.

~~(6)~~ (9) "Junk Motor Vehicle" means a motor vehicle 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 buildup of debris that obstructs use, broken window or windshield; missing wheels, tires, tail/headlights, or bumpers; missing or nonfunctional motor or transmission; or body damage;
- (c) Is apparently inoperable; or
- (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

“Junk Motor Vehicle” does not include a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the requirements of RCW 46.80.130;

~~(7)~~ (10) "Nuisance," "violation" or "nuisance violation" means:

(a) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission, which annoys, injures, or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or

(b) The existence of any of the following conditions:

(i) ~~Trash covered premises including, but not limited to, any premises containing~~ Premises containing visible accumulations of trash, junk, litter, boxes, discarded lumber, salvage materials or other similar materials, except that kept in garbage cans or containers maintained for regular collection, or obnoxious odors;

(ii) Dangerous structures including, but not limited to, any dangerous, decaying, unkempt, falling or damaged dwelling, ~~fence,~~ or other structure;

(iii) White goods, numerous pieces of broken or discarded furniture, household equipment and furnishings in any yard or vacant lot;

~~(iv) Shopping carts in any yard or vacant lot of a property zoned residential;~~

~~(v)~~ (iv) Any accumulation of material on a property which constitutes potential vermin habitat or fire hazard including, but not limited to, animal matter, ashes, bottles, boxes, ~~broken stone,~~ building materials which are not properly stored or neatly piled, cans, ~~cement~~ concrete, crates, empty barrels, dead animals or animal waste, glass, litter, mattresses or bedding, old appliances or equipment or any parts thereof, furniture, iron or other scrap metal, packing cases, packing material, plaster, plastic, rags, wire, yard waste or debris or other objects which endanger property or public safety, or constitute a fire hazard or potential vermin habitat. Nothing in this subsection shall prevent the temporary retention of waste in approved, covered receptacles;

~~(vi)~~ (v) Any Junk motor vehicles including, but not

limited to, ~~any junk vehicle or any~~ junk motor vehicle, vehicle hulk or any part thereof which is wrecked, inoperable or abandoned, or any disassembled trailer, house trailer, ~~boat, tractor,~~ or any part thereof, with one exception:

(A) A property may store up to six junk motor vehicles on private property outside of a permitted building, only if the vehicles are completely screened (as defined in KCC 9.56.020(17)) by sight-obscuring fence or natural vegetation to the satisfaction of the Director (a covering such as a tarp over the vehicles will not constitute an acceptable visual barrier). The owner of any such screened junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the Department regarding the property where such vehicle(s) will be located or stored, as set forth in KCC 9.56.070. Any junk motor vehicle that is stored outside on private property without an approved environmental mitigation agreement with the Department shall be considered a nuisance in accordance with this chapter;

(vi) Vehicle lots without approved land use;

~~(vii)~~ (vii) Attractive Nuisances. Any nuisance defined in this subsection which is detrimental to children, whether in or on a building, on the premises of a building, or upon an unoccupied lot, which is left in any place exposed or accessible to children including, but not limited to, unused or abandoned refrigerators, freezers, or other large appliances or equipment or any parts thereof; abandoned motor vehicles; any structurally unsound or unsafe fence or edifice; any unsecured or abandoned excavation, pit, well, cistern, storage tank or shaft; and any lumber, trash, debris or vegetation which may prove a hazard for minors;

~~(viii)~~ (viii) Obstructions to the public right-of-way including, but not limited to, use of property abutting a public street or sidewalk or use of a public street or sidewalk which causes any obstruction to traffic or to open access to the streets or sidewalks. This subsection shall not apply to events, parades, or the use of the streets or public rights-of-way when authorized by the county. This section includes the existence of drainage onto or over any sidewalk, street or public right-of-way, and the existence of any debris or plant growth on sidewalks adjacent to any property, and any personal property and/or solid waste that has been placed onto a public right-of-way pursuant to a court-ordered eviction per RCW Chapter 59 which has not been removed after 24 hours;

~~(ix) Vegetation including, but not limited to, any noxious or toxic weed or uncultivated plant, weeds or tall grass which may be a fire hazard, or any tree which is in danger of falling and creates a substantial risk of damage or injury;~~

~~(x)~~ (ix) Illegal dumping including but not limited to, dumping of any type by any person on public or private property not designated as a legal dump site; and

~~(xi)~~ (x) Dumping in waterways including, but not limited to, dumping, depositing, placing or leaving of any garbage, ashes, debris, gravel, earth, rock, stone or other material upon the banks, channels, beds or bars of any navigable water, or the felling of any tree or trees, so that the same shall in whole or in part project within the high water bank of any navigable watercourse, or the casting, placing, depositing or leaving of any logs,

roots, snags, stumps or brush upon the banks or in the bed or channel of any navigable watercourse., unless otherwise approved by the appropriate governmental agency.

~~(8)~~ (11) "Omission" means a failure to act.

~~(9)~~ (12) "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

~~(10)~~ (13) "Person responsible for the violation" means any person who has an interest in or resides on the property where the alleged violation is occurring, whether as owner, tenant, occupant, or otherwise.

~~(11)~~ (14) "Repeat violation" means a violation of the same regulation in any location by the same person, for which voluntary compliance previously has been sought or a notice of abatement has been issued, within the immediately preceding ~~12~~ twelve consecutive month period.

(15) "Scrap" means any manufactured metal or vehicle parts useful only as material for reprocessing.

(16) "Scrap processor" means a licensed establishment that maintains a hydraulic baler and shears, or a shredder for recycling salvage.

(17) "Screened" means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way.

(18) "Vehicle" means every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway. Motorcycles shall be considered vehicles for the purposes of this chapter. Mopeds and bicycles shall not be considered vehicles for the purposes of this chapter.

(19) "Vehicle lot" means a single tax parcel where more than ten vehicles are regularly stored without approved land use by the Department.

~~(12)~~ (20) "Violation" means a violation that constitutes a nuisance under this chapter for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.

~~(13)~~ (21) "Violations hearing examiner" means a hearing examiner employed by the Board of County Commissioners and authorized to enforce the provisions of this chapter.

Section 9.56.030 Voluntary correction.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, he or she shall attempt to secure voluntary correction by contacting the person responsible for the alleged violation and, where possible, explaining the violation and requesting correction.

(b) Voluntary Correction Agreement. The person responsible for the alleged violation may enter into a voluntary correction agreement with the county, acting through the Director.

(i) Content. The voluntary correction agreement is a contract between the county and the person responsible for the violation in which such person agrees to

abate the alleged violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(A) The name and address of the person responsible for the alleged violation;

(B) The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(C) A description of the alleged violation and a reference to the regulation which has been violated;

(D) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(E) An agreement by the person responsible for the alleged violation that the county may enter the property and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;

(F) An agreement by the person responsible for the alleged violation that the county may abate the violation and recover its costs and expenses (~~including attorney fees, expert witness fees, and hearing costs~~) (including administrative, hearing and removal costs) and/or a monetary penalty pursuant to this chapter from the person responsible for the alleged violation if the terms of the voluntary correction agreement are not satisfied; and

(G) An agreement that by entering into the voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the alleged violation and/or the required corrective action.

(ii) Right to a Hearing Waived. By entering into a voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.

(iii) Extension and Modification. The Director may grant an extension of the time limit for correction or a modification of the required corrective action if the person responsible for the alleged violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances have delayed correction under the original conditions.

(iv) Abatement by the County. The county may abate the alleged violation in accordance with KCC 9.56.060 if all terms of the voluntary correction agreement are not met.

(v) Collection of Costs. If all terms of the voluntary correction agreement are not met, the person responsible for the alleged violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with KCC 9.56.040(5), plus all costs and expenses of abatement, as set forth in KCC 9.56.060(4) and allowed by RCW 35.80.030.

Section 9.56.035 Prerequisite to notice of abatement.

Absent conditions which pose an immediate threat to the public health, safety or welfare of the environment, the procedures for abatement of conditions constituting a nuisance pursuant to this chapter should be utilized by the county only after correction of such conditions has been attempted through use of the civil infraction process, as specified in Title 17 and Chapter 2.116 of the Kitsap County Code. Once it has been determined by the county that correction of such conditions has not been adequately achieved through use the civil infraction process, then the county shall proceed with abatement of such conditions pursuant to the provisions of this chapter.

Section 9.56.040 Notice of abatement.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction pursuant to KCC 9.56.030, he or she may issue a notice of abatement to the person responsible for the alleged violation.

(b) Under the following circumstances the Director may issue a notice of abatement without having attempted to secure voluntary correction as provided in KCC 9.56.030:

(i) When an emergency exists;

(ii) When a repeat violation occurs;

(iii) When the violation creates a situation or condition which cannot be corrected;

(iv) When the person responsible for the violation knew or reasonably should have known that the action was in violation of a county regulation; or

(v) When the person responsible for the violation cannot be contacted when reasonable attempts to contact the person have failed, or the person refuses to communicate or cooperate with the county in correcting the alleged violation.

(2) Content. The notice of abatement shall include the following:

(a) The name and address of the person responsible for the alleged violation;

(b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(c) A description of the violation and a reference to the provision(s) of the county regulation(s) which has been allegedly violated;

(d) The required corrective action and a date and time by which the correction must be completed and after which, the county may abate the unlawful condition in accordance with KCC 9.56.060;

(e) The date, time and location of an appeal hearing before the violations hearing examiner which will be at least twenty, but no more than sixty days from the date of the notice of abatement, unless such date is continued by the violations hearing examiner for good cause shown;

(f) A statement indicating that the hearing will be canceled and no

monetary penalty will be assessed, if the Director approves the completed, required corrective action prior to the hearing; and

(g) A statement that the costs and expenses of abatement incurred by the county pursuant to KCC 9.56.060(4), and a monetary penalty in an amount per day for each violation as specified in KCC 9.56.040(5), may be assessed against the person to whom the notice of abatement is directed as specified and ordered by the violations hearing examiner.

(3) Service of Notice. The Director shall serve the notice of abatement upon the person responsible for the alleged violation, either personally or by mailing a copy of the notice by certified or registered mail, with a five-day return receipt requested, to such person at their last known address. If the person responsible for the violation cannot be personally served within Kitsap County, and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of abatement conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail. If the person responsible for the alleged violation is a tenant, a copy of the notice of abatement shall also be mailed to the landlord or owner of the property where the alleged violation is occurring. If the alleged violation involves a junk motor vehicle, notice shall be provided to the last registered and legal owner of record of said vehicle (unless the vehicle is in such condition that identification numbers are not available to determine ownership), as well as to the property owner of record, as shown on the last equalized assessment roll.

(4) Extension. Extensions of the time specified in the notice of abatement for correction of the alleged violation may be granted at the discretion of the Director or by order of the violations hearing examiner.

(5) Monetary Penalty. The monetary penalty for each violation of this chapter is \$250.00 per day or portion thereof.

(6) Continuing Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of abatement was issued of the duty to correct the alleged violation.

(7) Collection of Monetary Penalty.

(a) A monetary penalty imposed pursuant to KCC 9.56.040(5) constitutes a personal obligation of the person to whom the notice of abatement is directed. The monetary penalty must be paid to the county within ten calendar days from either the date of mailing of the violations hearing examiner's decision following a hearing, or the date of mailing the violations hearing examiner's default order if the person responsible for the violation failed to appear for the hearing. Any such monetary penalty also constitutes a lien against the affected real property, in the manner set forth in KCC 9.56.060(6).

(b) The prosecuting attorney is authorized to take appropriate action to collect the monetary penalty.

Section 9.56.050 Hearing before the violations hearing examiner.

(1) Notice. A person to whom a notice of abatement is issued will be scheduled to appear before the violations hearing examiner not less than twenty, nor more than sixty calendar days after the notice of abatement is issued. Continuances may be granted at the discretion of the Director, or by the violations hearing examiner for good cause.

(2) Prior Correction of Violation. The hearing will be canceled and no monetary penalty will be assessed, if the Director approves the completed required corrective action prior to the scheduled hearing.

(3) Procedure. The violations hearing examiner shall conduct a hearing on the notice of abatement and alleged violation pursuant to hearing examiner procedures approved by the Board of County Commissioners.

(a) Junk motor vehicles placed or abandoned on private property. If a junk motor vehicle is placed or abandoned on private property without the consent of the property owner, the owner of the property on which the 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/her reasons for denial. If it is determined by the violations hearing examiner that the vehicle was placed on the property without the consent of the property owner and that he/she has not subsequently acquiesced in its presence, then the costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located, or otherwise collected from the property owner.

(4) Hearing decision. At the conclusion of the hearing on the violation, the violations hearing examiner shall either: 1) affirm the issuance of the notice of abatement if he or she determines by a preponderance of the evidence that the violation exists substantially as stated in the notice of abatement; 2) dismiss the notice of abatement and grant the appeal if he or she determines that the violation does not exist substantially as stated in the notice of abatement; or 3) modify the abatement depending on the specifics of the violation. A copy of the violations hearing examiner's ruling shall be mailed to the person found responsible for the violation, the county, and if the person responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(5) Monetary penalties. The violations hearing examiner may assess monetary penalties in accordance with KCC 9.56.040(5).

(a) The violations hearing examiner has the following options in assessing monetary penalties:

(i) Assess monetary penalties beginning on the date the notice of abatement was issued and thereafter;

(ii) Assess monetary penalties beginning on the correction date set by the Director, or an alternate correction date set by the violations hearing examiner and thereafter;

(iii) Assess less than the established monetary penalty set forth in KCC 9.56.040(5), based on the criteria of KCC 9.56.050(5)(b); or

(iv) Assess no monetary penalties.

(b) In determining the monetary penalty assessment, the violations hearing examiner shall consider the following factors:

- (i) Whether the person to whom the notice of abatement was issued responded to attempts to contact the person, and cooperated to correct the violation;
- (ii) Whether the person failed to appear at the hearing;
- (iii) Whether the violation was a repeat violation;
- (iv) Whether the person showed due diligence and/or substantial progress in correcting the violation; and
- (v) Any other relevant factors.

(c) The violations hearing examiner may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations, the violations hearing examiner shall consider the factors set forth in KCC 9.56.050(5)(b).

(6) Failure to Appear. If the person to whom the notice of abatement was issued fails to appear at the scheduled hearing, the violations hearing examiner will enter an order of default with findings pursuant to KCC 9.56.050(4) and assess the appropriate monetary penalty pursuant to KCC 9.56.050(5). The county may enforce the violations hearing examiner's order and recover all related expenses, including attorney fees, plus the costs of the hearing and any monetary penalty from the person to whom the notice of abatement was issued. A copy of the order of default shall be mailed to the person to whom the notice of abatement was issued and against whom the default order was entered, the county, and if the person found responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(7) Time Period for Correction. If a notice of abatement is affirmed by the violations hearing examiner, the person responsible for the violation shall have thirty days to abate the violation and bring the property into compliance with the terms of this ordinance or the county may perform the abatement required therein, and shall bill the costs in manner provided in Section 9.56.060 of this chapter.

(8) Judicial Review. Any person with standing to bring a land use petition under Chapter 36.70C RCW, including the county, may seek review of the violations hearing examiner's decision by filing a land use petition in superior court and complying with all requirements of Chapter 36.70C RCW.

Section 9.56.060 Abatement by the county.

- (1) The county may abate a condition which constitutes a nuisance under this chapter when:
- (a) The terms of voluntary correction agreement pursuant to KCC 9.56.030 have not been met;
 - (b) A notice of abatement has been issued pursuant to KCC 9.56.040, a hearing has been held pursuant to KCC 9.56.050, and the required correction has not been completed by the date specified in the violations hearing examiner's order; or
 - (c) The condition is subject to summary abatement as provided for in KCC 9.56.060(2).

(2) Summary Abatement. Whenever any nuisance causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or

welfare or to the environment, the county may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. If the person responsible for the violation is a tenant, notice of such abatement shall also be given to the landlord or owner of the property where the violation is occurring. No right of action shall lie against the county or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the county be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person responsible for the violation.

(3) Authorized Action by the County. Using any lawful means, the county may enter upon the subject property and may remove or correct the condition that is subject to abatement. The county may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

(a) Removal of junk motor vehicles, vehicle hulk or parts thereof. If the owner or person found responsible for a nuisance involving a junk motor vehicle, vehicle hulk or any parts thereof fails to correct his/her nuisance within the date specified in the violations hearing examiner's order or notice of summary abatement, the county, upon notification from the Director, may enter the subject property to inspect and certify that a vehicle meets the criteria of a junk motor vehicle as defined in this chapter. The law enforcement officer or county agent making the certification shall record the make and vehicle identification number or license number of the vehicle if available and/or legible, and shall also document in detail the damage or missing equipment to verify whether the approximate value of the vehicle is equivalent only to the approximate value of the scrap in it (only if that is one of the definitional criteria that was alleged in the notice of abatement issued by the county). The vehicle shall then be photographed by the officer or county agent, removed from the property by the county, and disposed of by a licensed vehicle wrecker, hulk hauler, or scrap processor with notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been wrecked. The vehicle shall only be disposed of as scrap.

(i) Photographic record. The county shall maintain a photographic record of all abated junk motor vehicles for a period of two years following abatement. At the conclusion of the two year period, a written report, along with copies of the photographs, shall be forwarded to the Board of County Commissioners.

(4) Recovery of Costs and Expenses. The costs of correcting a condition which constitutes a nuisance under this chapter, including all incidental expenses, shall be billed to the person responsible for the nuisance and/or the owner, lessor, tenant or any other person entitled to control the subject property, and shall become due and payable to the county within ~~ten~~ fifteen calendar days of the date of mailing the billing for abatement. The term "incidental expenses" includes, but is not limited to, personnel costs, both direct and indirect and including attorney's fees; costs incurred in documenting the violation; towing/hauling, storage and removal/disposal expenses; and actual expenses and costs of the county in preparing notices, specifications and contracts associated with the abatement, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. All such costs and expenses shall

constitute a lien against the affected property, as set forth in KCC 9.56.060(6).

(5) Interference. Any person who knowingly hinders, delays or obstructs any county employee acting on direction of the Director in the discharge of the county employee's official powers or duties in abating a nuisance under this chapter, shall be guilty of a misdemeanor punishable by imprisonment not exceeding ninety (90) days and/or a fine not exceeding \$1,000.

(6) Lien - Authorized. The county shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs ~~including attorney and expert witness fees~~, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall run with the land, but 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 on a parity.

(a) The Director shall cause a claim for lien to be filed for record within ninety days from the later of the date that the monetary penalty is due, the work is completed, or the nuisance abated.

(b) The claim of lien shall contain sufficient information regarding the notice of abatement, as determined by the Director, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

(c) Any such claim of lien shall be verified by the Director, and may be amended to reflect changed conditions.

Section 9.56.070 ~~Additional enforcement procedures.~~ Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.

Pursuant to KCC 9.56.020(10)(b)(v)(A), an environmental mitigation agreement between a property owner and the Department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the Department for a one-time fee of \$10.00 per vehicle. In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following preventative measures:

(1) Each junk motor vehicle must be stored on a concrete or paved surface; or

(2) Each junk motor vehicle must have all of its fluids drained before being placed on the property; or

(3) Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle.

The agreement will require the property owner to select one of the three preventative measures and to allow for an initial inspection of the property by the Department to assure that the preventative measure has been implemented to the satisfaction of the Department. By entering into the agreement, the property owner further agrees to allow the Department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. A property owner found to be in violation of the agreement may be fined a monetary

penalty in accordance with KCC 9.56.040(5), and the property may be deemed a nuisance in accordance with the provisions of this chapter.

Section 9.56.080 ~~Removal of personal property and/or solid waste placed onto public access or private property.~~ Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by this code.

Section 9.56.090 ~~Conflicts.~~ Removal of personal property and/or solid waste placed onto public access.

(1) Once personal property and/or solid waste belonging to an evicted tenant has been placed onto public right-of-way ~~or private property~~ pursuant to a court-ordered eviction per Chapter 59 RCW, the evicted tenant/owner of the personal property and/or solid waste or ~~their~~ his/her designee shall have twenty-four hours to remove said personal property and/or solid waste from the public right-of-way ~~or private property~~. Notice of such removal after twenty-four hours shall be given to the evicted tenant/owner of the personal property and/or solid waste or his/her designee. If, after twenty-four hours, the evicted tenant/owner or his/her designee has not removed the personal property and/or solid waste from the public right-of-way, ~~or private property~~ the property shall be ~~deemed abandoned and considered as litter~~ deemed a nuisance, and the landlord/property owner or his/her designee shall remove the personal property and/or solid waste for proper disposal within forty-eight hours or the county shall seek to abate the nuisance, pursuant to KCC 9.56.060, to be billed to the landlord/property owner or his/her designee.

Section 9.56.100 ~~Conflicts.~~ Representation by Attorney.

In the event of a conflict between this chapter and any other provision of the Kitsap County Code or other county ordinance providing for a civil penalty, this chapter shall control.

Section 9.56.110 Representation by Attorney.

(1) A person subject to proceedings under this chapter may appear on his or her own behalf or be represented by counsel.

(2) The prosecuting attorney representing the county may, but need not, appear in any proceedings under this chapter.

Section 2. Severability. If any section, subsection, clause or phrase of this ordinance or amendment thereto, or its application to any person, entity or circumstance, is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

Section 3. Effective Date. This ordinance shall take effect immediately.

DATED this _____ day of _____, 2001.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

CHRIS ENDRESEN, Chair

JAN ANGEL, Commissioner

TIM BOTKIN, Commissioner

ATTEST:

Holly Anderson,
Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

site ³	P	P	P	P	P
5 Duplexes on double the minimum lot area required for the zone	X	P	P	P	P
6 Aggregate extraction sites ⁴	P	P	X	X	X
7 Accessory dwelling unit ¹	X	C	C	C	C
7A Accessory living quarters ¹	X	P	P	P	P
8 Accessory uses or structures ⁸	P	P	P	P	P
9 Commercial stables ¹	X	C	C	C	C
10 Bed and breakfast house	X	C	SPR ²	SPR ²	SPR ²
11 Kennels ¹	X	C	C	C	C
12 Public facilities ⁷	C	C	C	C	C
13 Nurseries	X	C	C	C	C
14 Rock crusher used for the purpose of construction and maintenance of a timber management road system	C	C	X	X	X
15 Aquaculture	X	C	C	C	C
16 Publicly owned recreational facilities	X	C	SPR	SPR	SPR
17 Private recreational facilities	X	X	C	C	C
18 Performance based developments ⁵	X	SPR	SPR	SPR	SPR
19 Places of worship ¹	X	C	C	C	C
20 Cemeteries and/or mausoleums, crematories and mortuaries within cemeteries ¹	X	X	C	C	C
21 Public or private schools ¹	X	C	C	C	C
22 Golf courses	X	X	C	C	C
23 Veterinary clinics ¹	X	X	C	C	C
24 Day-care centers ¹	X	X	C	C	C
25 Contractor's storage yard ¹	X	X	C	C	X
26 Community buildings, social halls, lodges, clubs and meeting places ¹	X	X	C	C	X
27 Home business ^{1, 6}	C	SPR	SPR	SPR	SPR
28 Overnight accommodations, meeting facilities, and recreational vehicle (RV) facilities associated with a public park or private recreational facilities.	X	C	C	C	C

NOTES TO RURAL USE TABLE 17.320.020

1. Subject to the provisions of Chapter 17.430.
2. As defined in Chapter 17.110.
3. Minimum setbacks shall be 20 feet from any abutting right-of-way or property line; provided, however, advertising for sale of products shall be limited to two on premise signs each not exceeding six square feet.
4. No greater than two acres for the purposes of construction and maintenance of a timber management road system, provided the total parcel is at least twenty acres.
5. Subject to the provisions of Chapter 17.425.
6. Home business located in the forest resource lands (FRL) must be associated with timber production and/or harvest.
7. Public facilities are allowed in forest resource lands (FRL) that do not inhibit forest practices.
8. Storage of junk motor vehicles is subject to the provisions of Section 17.430.020 X.

Section 3. Kitsap County Code Section 17.325.020, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended as follows:

17.325.020 Permitted uses.

The following uses are permitted:

- A. Single-family detached dwellings, provided, mobile homes as defined in Chapter 17.110 shall not be allowed, except in approved mobile home parks;
- B. Publicly owned recreational facilities, services, parks, and playgrounds;
- C. Agriculture uses, including accessory buildings related to such uses and activities as defined in Chapter 17.110, and subject to the provisions of Chapter 17.430;
- D. Forestry, including accessory buildings related to such uses and activities as defined in Chapter 17.110;
- E. Accessory uses and structures normal to a residential environment, subject to the provisions of Section 17.430.020 X;
- F. Duplexes on double the minimum lot area required for the zone; and
- G. Accessory dwelling unit and accessory living quarters, subject to the provisions of Chapter 17.430.

Section 4. Kitsap County Code Section 17.330.020, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended as follows:

17.330.020 Permitted uses.

The following uses are permitted:

- A. Single-family detached dwellings, provided, mobile homes as defined in Chapter 17.110 shall not be allowed, except in approved mobile home parks;
- B. Publicly-owned recreational facilities, services, parks, and playgrounds;
- C. Agricultural uses, including accessory buildings related to such uses and activities as defined in Chapter 17.110, and subject to the provisions of Chapter 17.430;
- D. Forestry, including accessory buildings related to such uses and activities as defined in Chapter 17.110;
- E. Accessory uses and structures normal to a residential environment, subject to the provisions of Section 17.430.020 X;
- F. Duplexes on double the minimum lot area required for the zone;
- G. Accessory dwelling unit and accessory living quarters, subject to the provisions of Chapter 17.430; and
- H. Residential care facility located within an existing structure.

Section 5. Kitsap County Code Section 17.340.020, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended as follows:

17.340.020 Permitted uses.

The following uses are permitted:

- A. Single-family attached and detached, provided, mobile homes as defined in Chapter 17.110, shall not be allowed, except in approved mobile home parks;
- B. Multi-family, provided, they meet the density requirements;
- C. Publicly owned recreational facilities, services, parks, and playgrounds;

D. Agricultural uses, including any accessory buildings related to such uses and activities as defined in Chapter 17.110, and subject to the provisions of Chapter 17.430;

E. Forestry, including any accessory buildings related to such uses and activities as defined in Chapter 17.110;

F. Accessory uses and structures normal to a residential environment, subject to the provisions of Section 17.430.020 X;

G. Accessory dwelling unit and accessory living quarters, subject to the provisions of Chapter 17.430; and

H. Residential care facility located in an existing structure.

Section 6. Kitsap County Code Section 17.350.020, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended as follows:

URBAN HIGH RESIDENTIAL USE TABLE 17.350.020

"P" — Permitted uses "SPR" — Site plan review, Chapter 17.410
 "C" — Conditional uses, Chapter 17.420 "X" — Uses specifically prohibited

USES	UH
A. Residential	
1. Existing residential	P
2. Accessory uses and structures normal to a residential environment ⁴	P
3. Single-family dwellings – attached	SPR
4. Single-family dwellings – detached	SPR
5. Multi-family subject to density limitations of the zone	P
6. Residential performance based development ³	SPR
7. Boarding or rooming house ²	SPR
8. Structures exceeding 35 feet in height	C
9. Home business ¹	SPR
B. Retail Sales – Restaurants, Drinking Places	
1. Restaurants within residential or office complex	SPR
2. Espresso stands within a residential or office complex	P
C. Services, Business	
1. Mini-storage warehouses	C
2. Temporary sales offices	SPR
D. Services, Medical and Health	
1. Hospital	C
2. Veterinary clinics ¹	C
3. Medical and dental clinics	SPR
4. Convalescent, nursing or rest home	SPR
5. Congregate care facility	C
6. Residential care facility within an existing structure	P
7. Residential care facility not located within an existing structure	SPR

USES	UH
E. Services, Professional Offices	
1. Professional and business offices	SPR
F. Services, Amusement	
1. Private recreational facility	SPR
G. Services, Membership Organizations	
1. Places of worship	SPR
2. Clubs, lodges and charitable institutions	SPR
H. Services, Educational	
1. Public and private schools ¹	SPR
2. Day-care centers ¹	SPR
USES	UH
I. Public Services and Facilities	
1. Parks and recreational facilities	SPR
2. Governmental structures including police and fire stations	SPR
3. Utility substation and related facilities	SPR
J. Other	
1. Forestry	P
2. Agricultural uses ² , including accessory buildings related to such uses and activities ¹	P
3. Cemeteries and mausoleums	C

1. Subject to the provisions of Chapter 17.430.
2. As defined in Chapter 17.110.
3. Subject to the provisions of Chapter 17.425.
4. Storage of junk motor vehicles is subject to the provisions of Section 17.430.020 X.

Section 7. Kitsap County Code Section 17.355.020, last amended by Ordinance 250-2000, last amended on December 4, 2000 is amended as follows:

COMMERCIAL USE TABLE 17.355.020

"P" — Permitted uses
 "C" — Conditional uses, Chapter 17.420
 "SPR" — Site plan review, Chapter 17.410
 "X" — Uses specifically prohibited

USES	NC ²	HTC ¹ ₂	UC	RC
A. Residential				
1. Medium and high density (Not on ground floor)	SPR	SPR	SPR	SPR
2. Performance based developments, subject to Chapter 17.425	SPR	SPR	SPR	SPR
3. Existing residences without any increase in density ³	P	P	P	P

USES	NC ²	HTC ¹ ₂	UC	RC
B. Retail Sales – General Merchandise and services				
1. Stores in excess of 25,000 square feet gross floor area	X	SPR	SPR	SPR
2. Stores – 5,000 to 25,000 square feet gross floor area	C	SPR	SPR	SPR
3. Stores – less than 5,000 square feet gross floor area	SPR	SPR	SPR	SPR
C. Retail Sales – Restaurants, Drinking Places				
1. Delicatessens / Restaurants – fast food including drive up service windows	SPR	SPR	SPR	SPR
2. Drinking places, alcoholic beverages with or without entertainment	C	C	C	C
3. Espresso stands	SPR	SPR	SPR	SPR
D. Retail Sales – Automotive Related Sales & Services				
1. Motor vehicle / RV dealers – new and used	X	SPR	SPR	SPR
2. Auto parts and accessory stores	X	SPR	SPR	SPR
3. Service stations / fuel sales	X	SPR	SPR	SPR
4. Boat dealers, marine supplies, and repair	X	SPR	SPR	SPR
5. Farm equipment and implement dealer	X	SPR	SPR	SPR
6. Auto, truck, trailer and equipment rental or repair	X	SPR	SPR	SPR
7. Car washes	X	SPR	SPR	SPR
E. Retail Sales – Miscellaneous Stores				
1. Mobile home sales – new and used	X	SPR	SPR	SPR
2. Farm and garden supplies including nurseries	SPR	SPR	SPR	SPR
3. Fuel distributors / bulk storage	X	C	C	C
4. Laundry services	C	SPR	SPR	SPR
5. Lumber yards and building/construction materials	X	SPR	SPR	SPR
F. Retail Sales – Products (Custom Fabricated, Processed, Assembled, Installed, Repaired, or Printed on the Premises within an Entirely Enclosed Building)				
1. Cabinet, electrical, plumbing, sheet metal, heating & air conditioning and welding shops	C	SPR	SPR	SPR
G. Services – Business				
1. General office and management services in excess of 5,000 square feet gross floor area	X	SPR	SPR	SPR
2. General office and management services – 2,000 to 5,000 square feet gross floor area	C	SPR	SPR	SPR
3. General office and management services less than 2,000 square feet gross floor area	SPR	SPR	SPR	SPR
4. Duplicating, addressing, blueprinting, photocopying, mailing, and stenographic services	SPR	SPR	SPR	SPR
5. Mortuaries	C	SPR	SPR	SPR
6. Office equipment service and repair shop	C	SPR	SPR	SPR
7. Off-street parking facilities	X	SPR	SPR	SPR

USES	NC ²	HTC ¹ ₂	UC	RC
8. Mini-storage warehouses	X	SPR	SPR	SPR
9. Auction house	X	SPR	C	SPR
10. Vehicle towing service storage	X	C	C	C
11. Financial and banking institutions	SPR	SPR	SPR	SPR
12. Real estate brokers, agents, and services	SPR	SPR	SPR	SPR
H. Services – Lodging Places				
1. Motels / Hotels	C	SPR	SPR	SPR
2. Recreational vehicle camping parks	X	C	X	X
I. Services – Medical and Health				
1. Hospitals / health care campus	X	SPR	SPR	SPR
2. Medical and dental laboratories	C	SPR	SPR	SPR
3. Sanitaria, convalescent, and rest homes	C	SPR	SPR	SPR
4. Animal hospital	SPR	SPR	SPR	SPR
5. Ambulance service	C	SPR	SPR	SPR
6. Congregate care facility	C	C	C	C
7. Clinic, outpatient	SPR	SPR	SPR	SPR
J. Services – Amusement				
1. Amusement centers – indoor	C	SPR	SPR	SPR
2. Amusement centers – outdoor	C	SPR	SPR	SPR
3. Carnival (temporary) and circus (temporary)	C	SPR	SPR	SPR
4. Health and racquet clubs	SPR	SPR	SPR	SPR
5. Theaters, indoor	SPR	SPR	SPR	SPR
6. Theaters, outdoor (drive-in)	X	C	C	C
7. Sports facilities, including stadium and arena facilities	C	SPR	SPR	SPR
K. Services – Educational, Recreational				
1. Nursery, day-care centers	SPR	SPR	SPR	SPR
2. Libraries	SPR	SPR	SPR	SPR
3. Private schools	SPR	SPR	SPR	SPR
4. Public parks, parkways, public/private recreational facilities, trails and related facilities	SPR	SPR	SPR	SPR
5. Marinas	SPR	SPR	SPR	SPR
L. Services – Membership Organizations				
1. Business, professional, civic, social and fraternal	SPR	SPR	SPR	SPR
2. Religious, places of worship	SPR	SPR	SPR	SPR
M. Public Services and Facilities				
1. Police and fire stations	SPR	SPR	SPR	SPR
2. Educational institutions	SPR	SPR	SPR	SPR
3. Post offices	SPR	SPR	SPR	SPR

USES		BP	IND
11.	Amusement park	X	C
12.	Circus, carnival or other type of transient and outdoor amusement enterprises	X	SPR
13.	Race track; auto or motorcycle	C	C
14.	Museums, aquariums, historic, or cultural exhibits	SPR	SPR
15.	Tourism facilities including outfitters, guides, and seaplane and tour-boat terminals	SPR	SPR
B. Assembly -- Manufacture of Products			
1.	Assembly and fabrication of sheet metal products	SPR	SPR
2.	Assembly, manufacture, compounding, packaging or treatment of articles or merchandise (Non-Hazardous)	SPR	SPR
3.	Assembly, manufacture, compounding, packaging or treatment of articles or merchandise (Hazardous)	X	C
4.	Ship building, dry dock, ship repair, dismantling	X	SPR
5.	Manufacture of paper and by-products of paper	X	SPR
6.a	Manufacture of roofing paper or shingles, asphalt in facilities less than 10,000 square feet	SPR	SPR
6.b	Manufacture of roofing paper or shingles, asphalt in facilities 10,000 square feet or greater	C	C
7.	Manufacture of mobile and manufactured homes	X	SPR
8.a	Forest products manufacturing or shipping facilities which are not located on the waterfront	X	SPR
8.b	Forest products manufacturing or shipping facilities which are located on the waterfront	X	C
C. Processing and Storage			
1.	Spinning or knitting of fibrous materials	SPR	SPR
2.	Non-marine related wholesale business, and warehouses not including mini-storage facilities	SPR	SPR
3.	Non-marine related cold storage plants, including storage and office	SPR	SPR
4.	Processing uses such as bottling plants, creameries, laboratories, blue printing, and photocopying, tire retreading, recapping, and rebuilding	SPR	SPR
5.	Storage or sale yard for building materials, contractors' equipment, house mover, delivery vehicles, transit storage, trucking terminal, and used equipment in operable condition	X	SPR
6.	Brewery, distillery, or winery	SPR	SPR
7.	Junkyards or wrecking yards	X	C
8.	Grain elevator and flour milling	X	SPR
9.	Sawmills, lumber mills, planing mills, and molding plants	X	SPR
10.	Junk, rags, paper, or metal salvage, storage or processing	X	C
11.	Rolling, drawing, or alloying ferrous and nonferrous metals	X	SPR
12.	Rubber, treatment or reclaiming plant	X	SPR

USES	BP	IND
13. Slaughterhouse or animal processing	X	C
14. Major petroleum storage and/or refining	X	C
15. Recycling centers (excluding junkyards)	SPR	SPR
16. Incinerator or reduction of garbage, offal, dead animals or refuse	X	C
17. Marine-related storage of equipment, supplies, materials, boats, nets, and vehicles	X	SPR
18. Cold storage facilities for marine or agricultural products	SPR	SPR
D. Aggregate Products		
1. Manufacture of concrete products and associated uses	X	C
2. Manufacture of concrete products entirely within an enclosed building	SPR	SPR
3. Surface mining and quarries, subject to the provisions of the Mineral Resource Zone	X	C
E. Other		
1. Business and Professional services	P	SPR
2. Welding shop	C	SPR
3. Existing residential use without any increase in density ¹	P	P
4. Residential dwelling for caretaker on the property in conjunction with a permitted use	P	P
5. Administrative, educational, and other related activities and facilities in conjunction with a permitted use	SPR	SPR
6. Research Laboratory	SPR	SPR
7. Aquaculture	X	C
8. Cabinet, electrical, plumbing, sheet metal/welding, electroplating and similar fabrication shops	SPR	SPR
9. Marine manufacturing repairs and services	SPR	SPR
10. Shellfish/fish hatcheries and processing facilities	X	C
11. Marinas	X	C
12. Forestry	P	P
13. Agriculture	P	P
14. Industrial Park	SPR	SPR
F. Public Services and Facilities		
1. Police and fire substations	SPR	SPR
2. Educational institutions	SPR	SPR
3. Land/water transshipment facilities, including docks, wharves, marine rails, cranes, and barge facilities	C	C
4. Recreational Facilities Public/Private	C	C

1. Storage of junk motor vehicles is subject to the provisions of Section 17.430.020 X.

NEW SUBSECTION. Section 9. Kitsap County Code Section 17.430.020, “Provisions Applying to Special Uses”, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended to add a new subsection as follows:

X. Storage of Junk Motor Vehicles.

Storage of junk motor vehicles on any property outside of a legally-permitted building (minimum of three sides and a roof) is prohibited, except where the storage of up to six junk motor vehicles meets the following conditions:

1. Any junk motor vehicle(s) stored outdoors must be completely screened by sight-obscuring fence or natural vegetation to the satisfaction of the Director (a covering such as a tarp over the vehicle(s) will not constitute an acceptable visual barrier). For the purposes of this section, “screened” means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way.

2. The owner of any such screened junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the Department of Community Development (Department) regarding the property where such vehicle(s) will be located or stored.

A. Environmental Mitigation Agreement. An environmental mitigation agreement between a property owner and the Department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the Department for a one-time fee of \$10.00 per vehicle. In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following preventative measures:

- (1) Each junk motor vehicle must be stored on a concrete or paved surface; or
- (2) Each junk motor vehicle must have all of its fluids drained before being placed on the property; or
- (3) Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle.

The agreement will require the property owner to select one of the three preventative measures and to allow for an initial inspection of the property by the Department to assure that the preventative measure has been implemented to the satisfaction of the Department. By entering into the agreement, the property owner further agrees to allow the Department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. A property owner found to be in violation of the agreement may be issued a civil infraction pursuant to Kitsap County Code Title 17, and could later be deemed a nuisance in accordance with Kitsap County Code Chapter 9.56.

Section 10. Kitsap County Code Section 17.435.030, “Number of spaces required”, subsection I, “Other Uses”, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended as follows:

17.435.030 Number of spaces required

I. Other Uses.

1. Other uses not specifically listed above shall furnish parking as required by the director. The director shall use the above list as a guide for determining requirements for said other uses.

2. Storage of junk motor vehicles is subject to the provisions of Section 17.430.020 X.

Section 11. Kitsap County Code Section 17.530.030, adopted by Ordinance 216-1998, adopted May 7, 1998 is amended as follows:

17.530.030 Nuisance.

Any use, building or structure in violation of this title is ~~hereby found to be~~ unlawful, and a public nuisance. Notwithstanding any other remedy or means of enforcement of the provisions ~~hereof~~ of this title, including but not limited to Chapter 9.56 pertaining to the abatement of public nuisances, a mandatory injunction may be brought by the prosecuting attorney, any person residing on property abutting the property with the proscribed condition, or and the owner or owners of land abutting the land with the proscribed condition may each bring an action for a mandatory injunction to abate the nuisance in accordance with the law. The costs of such a suit shall be taxed against the person violating found to have violated this title.

Effective date. This ordinance shall take effect immediately.

Severability. If any provision of this ordinance, or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

DATED this _____ day of August, 2001.

KITSAP COUNTY BOARD OF COMMISSIONERS

Chris Endresen, Chair

Jan Angel, Commissioner

ATTEST:

Holly Anderson
Clerk of the Board

Tim Botkin, Commissioner

Approved as to form:

Deputy Prosecuting Attorney

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kitsap County Board of Commissioners will continue a public hearing on August 27, 2001 at the hour of 10:00 AM, in its chambers, County Administrative Building, 614 Division Street, Port Orchard, WA, to consider an **Ordinance** relating to the abatement of conditions which constitute a public nuisance and adding a new Chapter 9.56, "Public Nuisances," to the Kitsap County Code and further summarized as follows:

The ordinance relates to the abatement of conditions that constitute a public nuisance and adding a new chapter 9.56, "Public Nuisances" to the Kitsap County Code. The purpose of the chapter is to establish an efficient system to enforce the land use and public health regulations of the county, and to provide an opportunity for a prompt hearing before a violations hearing examiner employed by the Kitsap County Board of County Commissioners and decision on alleged violations, and to establish penalties for violations, including abatement of violations.

Included in the definition of public nuisance is the existence of the following conditions: trash covered premises; dangerous structures; broken or discarded furniture, household equipment and furnishings in any yard or vacant lot; potential vermin habitat or fire hazards; junk vehicles; attractive nuisances; obstructions to the public right-of-way; vegetation posing risk of damage or injury; illegal dumping and dumping in waterways.

The chapter provides a method for property owners to enter into a voluntary correction agreement with the county to remedy violations constituting a public nuisance, and a means for the county to efficiently abate nuisances that are not corrected through the voluntary correction process or that constitute an emergent risk to public safety.

The Board or County Commissioners will also consider several amendments to Title 17 of the Kitsap County Code, also known as the Kitsap County Zoning Ordinance, which will correlate with the new provisions of the Public Nuisance Ordinance relating to junk motor vehicles.

ALL THOSE INTERESTED are welcome to attend.

HOLLY ANDERSON
Clerk of the Board of
Kitsap County Commissioners

NOTE: KITSAP COUNTY DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY. INDIVIDUALS WHO REQUIRE ACCOMMODATIONS, SHOULD CONTACT THE COMMISSIONERS OFFICE AT (360) 337-4428 OF TDD (360) 337-7275 OR 1-800-816-2782. (PLEASE PROVIDE TWO WEEKS NOTICE FOR INTERPRETER SERVICES).

Publication Date: August 15, 2001
The Kitsap Newspaper Group

(Revisions as of 8/2/01)

ORDINANCE NO. _____

RELATING TO THE ABATEMENT OF CONDITIONS WHICH CONSTITUTE
A PUBLIC NUISANCE AND ADDING A NEW CHAPTER 9.56, "PUBLIC NUISANCES,"
TO THE KITSAP COUNTY CODE

WHEREAS, Chapter 35.80 RCW authorizes the County to adopt ordinances relating to unfit dwellings, structures, and premises; and

WHEREAS, Chapter 46.55 RCW authorizes the County to adopt ordinances establishing procedures for the abatement and removal of junk vehicles or parts thereof as public nuisances; and

WHEREAS, the conditions outlined in RCW 35.80.010 and RCW 46.55.240 concerning unfit dwellings, buildings, structures and junk vehicles exist within Kitsap County; and

WHEREAS, the public health, safety, and welfare require that the County establish procedures for the correction or removal of such conditions;

NOW, THEREFORE, BE IT ORDAINED:

NEW SECTION. Section 1. A new Chapter 9.56, "Public Nuisances" is added to Kitsap County Code as follows:

Sections:

- 9.56.010 Purpose.**
9.56.020 Definitions.
9.56.030 Voluntary correction.
9.56.035 Prerequisite to notice of abatement.
9.56.040 Notice of abatement.
9.56.050 Hearing before the violations hearing examiner.
9.56.060 Abatement by the county.
9.56.070 Additional enforcement procedures. Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.
9.56.080 ~~Removal of personal property and/or solid waste placed onto public access or private property.~~ Additional enforcement procedures.
9.56.090 ~~Conflicts.~~ Removal of personal property and/or solid waste placed onto public access.

9.56.100 ~~Representation by Attorney: Conflicts.~~

9.56.110 Representation by Attorney.

Section 9.56.010 Purpose.

This chapter provides for the abatement of conditions which constitute a public nuisance where premises, structures, vehicles, or portions thereof are found to be unfit for human habitation, or unfit for other uses, due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of Kitsap County.

Section 9.56.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

(1) "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a nuisance under this chapter by such means, in such a manner, and to such an extent as the Director determines is necessary in the interest of the general health, safety and welfare of the community.

(2) "Act" means doing or performing something.

(3) "Building" means a structure consisting of a minimum of three sides and a roof, erected pursuant to the Kitsap County Building Code.

~~(3)~~ (4) "Director" means the director of the department of community development, or the director of the department of public works, or their authorized designee, or any designee of the Board of County Commissioners, empowered to enforce a county ordinance or regulation.

(5) "Department" means the department of community development (DCD).

~~(4)~~ (6) "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a county regulation.

~~(5)~~ (7) "Emergency" means a situation which, in the opinion of the Director, requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

(8) "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed motor vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell second-hand vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), which may be sold to a licensed motor vehicle wrecker or disposed of at a public facility for waste disposal.

~~(6)~~ (9) "Junk Motor Vehicle" means a motor vehicle 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 buildup of debris that obstructs use, broken window or windshield; missing wheels, tires, tail/headlights, or bumpers; missing or nonfunctional motor or transmission; or body damage;
- (c) Is apparently inoperable; or
- (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

“Junk Motor Vehicle” shall not include a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the requirements of RCW 46.80.130;

~~(7)~~ (10) "Nuisance," "violation" or "nuisance violation" means:

- (a) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission, which annoys, injures, or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or
- (b) The existence of any of the following conditions:
 - (i) ~~Trash-covered premises including, but not limited to, any premises containing~~ Premises containing visible accumulations of trash, junk, litter, boxes, discarded lumber, salvage materials or other similar materials, except that kept in garbage cans or containers maintained for regular collection, or obnoxious odors;
 - (ii) Dangerous structures including, but not limited to, any dangerous, decaying, unkempt, falling or damaged dwelling, fence, or other structure;
 - (iii) White goods, numerous pieces of broken or discarded furniture, household equipment and furnishings in any yard or vacant lot;
 - ~~(iv) Shopping carts in any yard or vacant lot of a property zoned residential;~~
 - ~~(v)~~ (iv) Any accumulation of material on a property which constitutes potential vermin habitat or fire hazard including, but not limited to, animal matter, ashes, bottles, boxes, broken stone, building materials which are not properly stored or neatly piled, cans, cement concrete, crates, empty barrels, dead animals or animal waste, glass, litter, mattresses or bedding, old appliances or equipment or any parts thereof, furniture, iron or other scrap metal, packing cases, packing material, plaster, plastic, rags, wire, yard waste or debris or other objects which endanger property or public safety, or constitute a fire hazard or potential vermin habitat. Nothing in this subsection shall prevent the temporary retention of waste in approved, covered receptacles;
 - ~~(vi)~~ (v) Any junk motor vehicles including, but not limited to, any junk vehicle or any junk motor vehicle, vehicle hulk or any parts thereof which is is wrecked, inoperable or abandoned, or any disassembled trailer, house trailer, boat, tractor, or any

parts thereof, with one exception:

(A) A property may store up to six junk motor vehicles on private property outside of a permitted building, only if the vehicles are completely screened (as defined in KCC 9.56.020(17)) by sight-obscuring fence or natural vegetation to the satisfaction of the Director (a covering such as a tarp on the vehicles will not constitute an acceptable visual barrier). The owner of any such screened junk motor vehicle(s) must successfully enter into an environmental mitigation agreement with the Department regarding the property where such vehicle(s) will be located or stored, as set forth in KCC 9.56.070. Any junk motor vehicle that is stored outside on private property without an approved environmental mitigation agreement with the Department shall be considered a nuisance in accordance with this chapter;

(vi) Vehicle lots without approved land use;

(vii) (vii) Attractive Nuisances. Any nuisance defined in this subsection which is detrimental to children, whether in or on a building, on the premises of a building, or upon an unoccupied lot, which is left in any place exposed or accessible to children including, but not limited to, unused or abandoned refrigerators, freezers, or other large appliances or equipment or any parts thereof; abandoned motor vehicles; any structurally unsound or unsafe fence or edifice; any unsecured or abandoned excavation, pit, well, cistern, storage tank or shaft; and any lumber, trash, debris or vegetation which may prove a hazard for minors;

(viii) (viii) Obstructions to the public right-of-way including, but not limited to, use of property abutting a public street or sidewalk or use of a public street or sidewalk which causes any obstruction to traffic or to open access to the streets or sidewalks. This subsection shall not apply to events, parades, or the use of the streets or public rights-of-way when authorized by the county. This section includes the existence of drainage onto or over any sidewalk, street or public right-of-way, and the existence of any debris or plant growth on sidewalks adjacent to any property, and any personal property and/or solid waste that has been placed onto a public right-of-way pursuant to a court-ordered eviction per RCW Chapter 59 which has not been removed after 24 hours;

~~(ix) Vegetation including, but not limited to, any noxious or toxic weed or uncultivated plant, weeds or tall grass which may be a fire hazard, or any tree which is in danger of falling and creates a substantial risk of damage or injury;~~

~~(x) (ix) Illegal dumping including but not limited to, dumping of any type by any person on public or private property not designated as a legal dump site; and~~

~~(xi) (x) Dumping in waterways including, but not limited to, dumping, depositing, placing or leaving of any garbage, ashes, debris, gravel, earth, rock, stone or other material upon the banks, channels, beds or bars of any navigable water, or the felling of any tree or trees, so that the same shall in whole or in part project within the high water bank of any navigable watercourse, or the casting, placing, depositing or leaving of any logs, roots, snags, stumps or brush upon the banks or in the bed or channel of any navigable watercourse, unless otherwise approved by the appropriate governmental agency.~~

(8) (11) "Omission" means a failure to act.

~~(9)~~ (12) "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

~~(10)~~ (13) "Person responsible for the violation" means any person who has an interest in or resides on the property where the alleged violation is occurring, whether as owner, tenant, occupant, or otherwise.

~~(11)~~ (14) "Repeat violation" means a violation of the same regulation in any location by the same person, for which voluntary compliance previously has been sought or a notice of abatement has been issued, within the immediately preceding ~~12~~ twelve consecutive month period.

(15) "Scrap" means any manufactured metal or vehicle parts useful only as material for reprocessing.

(16) "Scrap processor" means a licensed establishment that maintains a hydraulic baler and shears, or a shredder for recycling salvage.

(17) "Screened" means not visible from any portion or elevation of any neighboring or adjacent public or private property, easement or right-of-way.

(18) "Vehicle" means every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway. Motorcycles shall be considered vehicles for the purposes of this chapter. Mopeds and bicycles shall not be considered vehicles for the purposes of this chapter.

(19) "Vehicle lot" means a single tax parcel where more than ten vehicles are regularly stored without approved land use by the Department.

~~(12)~~ (20) "Violation" means a violation that constitutes a nuisance under this chapter for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.

~~(13)~~ (21) "Violations hearing examiner" means a hearing examiner employed by the Board of County Commissioners and authorized to enforce the provisions of this chapter.

Section 9.56.030 Voluntary correction.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, he or she shall attempt to secure voluntary correction by contacting the person responsible for the alleged violation and, where possible, explaining the violation and requesting correction.

(b) Voluntary Correction Agreement. The person responsible for the alleged violation may enter into a voluntary correction agreement with the county, acting through the Director.

(i) Content. The voluntary correction agreement is a contract between the county and the person responsible for the violation in which such person agrees to abate the alleged violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(A) The name and address of the person responsible for the

alleged violation;

(B) The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(C) A description of the alleged violation and a reference to the regulation which has been violated;

(D) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(E) An agreement by the person responsible for the alleged violation that the county may enter the property and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;

(F) An agreement by the person responsible for the alleged violation that the county may abate the violation and recover its costs and expenses (~~including attorney fees, expert witness fees, and hearing costs~~) (including administrative, hearing and removal costs) and/or a monetary penalty pursuant to this chapter from the person responsible for the alleged violation if the terms of the voluntary correction agreement are not satisfied; and

(G) An agreement that by entering into the voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the alleged violation and/or the required corrective action.

(ii) Right to a Hearing Waived. By entering into a voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the violations hearing examiner under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.

(iii) Extension and Modification. The Director may grant an extension of the time limit for correction or a modification of the required corrective action if the person responsible for the alleged violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances have delayed correction under the original conditions.

(iv) Abatement by the County. The county may abate the alleged violation in accordance with KCC 9.56.060 if all terms of the voluntary correction agreement are not met.

(v) Collection of Costs. If all terms of the voluntary correction agreement are not met, the person responsible for the alleged violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with KCC 9.56.040(5), plus all costs and expenses of abatement, as set forth in KCC 9.56.060(4) and allowed by RCW 35.80.030.

Section 9.56.035 Prerequisite to notice of abatement.

Absent conditions which pose an immediate threat to the public health, safety or welfare of the environment, the procedures for abatement of conditions constituting a nuisance pursuant to this chapter should be utilized by the county only after correction of such conditions

has been attempted through use of the civil infraction process, as specified in Title 17 of the Kitsap County Code. Once it has been determined by the county that correction of such conditions has not been adequately achieved through use the civil infraction process, then the county shall proceed with abatement of such conditions pursuant to the provisions of this chapter.

Section 9.56.040 Notice of abatement.

(1) Issuance.

(a) When the Director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction pursuant to KCC 9.56.030, he or she may issue a notice of abatement to the person responsible for the alleged violation.

(b) Under the following circumstances the Director may issue a notice of abatement without having attempted to secure voluntary correction as provided in KCC 9.56.030:

(i) When an emergency exists;
(ii) When a repeat violation occurs;
(iii) When the violation creates a situation or condition which cannot be corrected;

(iv) When the person responsible for the violation knew or reasonably should have known that the action was in violation of a county regulation; or

(v) When the person responsible for the violation cannot be contacted when reasonable attempts to contact the person have failed, or the person refuses to communicate or cooperate with the county in correcting the alleged violation.

(2) Content. The notice of abatement shall include the following:

(a) The name and address of the person responsible for the alleged violation;

(b) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;

(c) A description of the violation and a reference to the provision(s) of the county regulation(s) which has been allegedly violated;

(d) The required corrective action and a date and time by which the correction must be completed and after which, the county may abate the unlawful condition in accordance with KCC 9.56.060;

(e) The date, time and location of an appeal hearing before the violations hearing examiner which will be at least twenty, but no more than sixty days from the date of the notice of abatement, unless such date is continued by the violations hearing examiner for good cause shown;

(f) A statement indicating that the hearing will be canceled and no monetary penalty will be assessed, if the Director approves the completed, required corrective action prior to the hearing; and

(g) A statement that the costs and expenses of abatement incurred by the county pursuant to KCC 9.56.060(4), and a monetary penalty in an amount per day for each violation as specified in KCC 9.56.040(5), may be assessed against the person to whom the notice

of abatement is directed as specified and ordered by the violations hearing examiner.

(3) Service of Notice. The Director shall serve the notice of abatement upon the person responsible for the alleged violation, either personally or by mailing a copy of the notice by certified or registered mail, with a five-day return receipt requested, to such person at their last known address. If the person responsible for the violation cannot be personally served within Kitsap County, and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of abatement conspicuously on the affected property or structure.

Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail. If the person responsible for the alleged violation is a tenant, a copy of the notice of abatement shall also be mailed to the landlord or owner of the property where the alleged violation is occurring. If the alleged violation involves a junk motor vehicle, notice shall be provided to the last registered and legal owner of record of said vehicle (unless the vehicle is in such condition that identification numbers are not available to determine ownership), as well as to the property owner of record, as shown on the last equalized assessment roll.

(4) Extension. Extensions of the time specified in the notice of abatement for correction of the alleged violation may be granted at the discretion of the Director or by order of the violations hearing examiner.

(5) Monetary Penalty. The monetary penalty for each violation of this chapter is \$250.00 per day or portion thereof.

(6) Continuing Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of abatement was issued of the duty to correct the alleged violation.

(7) Collection of Monetary Penalty.

(a) A monetary penalty imposed pursuant to KCC 9.56.040(5) constitutes a personal obligation of the person to whom the notice of abatement is directed. The monetary penalty must be paid to the county within ten calendar days from either the date of mailing of the violations hearing examiner's decision following a hearing, or the date of mailing the violations hearing examiner's default order if the person responsible for the violation failed to appear for the hearing. Any such monetary penalty also constitutes a lien against the affected real property, in the manner set forth in KCC 9.56.060(6).

(b) The prosecuting attorney is authorized to take appropriate action to collect the monetary penalty.

Section 9.56.050 Hearing before the violations hearing examiner.

(1) Notice. A person to whom a notice of abatement is issued will be scheduled to appear before the violations hearing examiner not less than twenty, nor more than sixty calendar days after the notice of abatement is issued. Continuances may be granted at the discretion of the Director, or by the violations hearing examiner for good cause.

(2) Prior Correction of Violation. The hearing will be canceled and no monetary penalty will be assessed, if the Director approves the completed required corrective action prior to

the scheduled hearing.

(3) Procedure. The violations hearing examiner shall conduct a hearing on the notice of abatement and alleged violation pursuant to hearing examiner procedures approved by the Board of County Commissioners.

(a) Junk motor vehicles placed or abandoned on private property. If a junk motor vehicle is placed or abandoned on private property without the consent of the property owner, the owner of the property on which the 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/her reasons for denial. If it is determined by the violations hearing examiner that the vehicle was placed on the property without the consent of the property owner and that he/she has not subsequently acquiesced in its presence, then the costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located, or otherwise collected from the property owner.

(4) Hearing decision. At the conclusion of the hearing on the violation, the violations hearing examiner shall either: 1) affirm the issuance of the notice of abatement if he or she determines by a preponderance of the evidence that the violation exists substantially as stated in the notice of abatement; 2) dismiss the notice of abatement and grant the appeal if he or she determines that the violation does not exist substantially as stated in the notice of abatement; or 3) modify the abatement depending on the specifics of the violation. A copy of the violations hearing examiner's ruling shall be mailed to the person found responsible for the violation, the county, and if the person responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(5) Monetary penalties. The violations hearing examiner may assess monetary penalties in accordance with KCC 9.56.040(5).

(a) The violations hearing examiner has the following options in assessing monetary penalties:

(i) Assess monetary penalties beginning on the date the notice of abatement was issued and thereafter;

(ii) Assess monetary penalties beginning on the correction date set by the Director, or an alternate correction date set by the violations hearing examiner and thereafter;

(iii) Assess less than the established monetary penalty set forth in KCC 9.56.040(5), based on the criteria of KCC 9.56.050(5)(b); or

(iv) Assess no monetary penalties.

(b) In determining the monetary penalty assessment, the violations hearing examiner shall consider the following factors:

(i) Whether the person to whom the notice of abatement was issued responded to attempts to contact the person, and cooperated to correct the violation;

(ii) Whether the person failed to appear at the hearing;

(iii) Whether the violation was a repeat violation;

(iv) Whether the person showed due diligence and/or substantial progress in correcting the violation; and

(v) Any other relevant factors.

(c) The violations hearing examiner may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations, the violations hearing examiner shall consider the factors set forth in KCC 9.56.050(5)(b).

(6) Failure to Appear. If the person to whom the notice of abatement was issued fails to appear at the scheduled hearing, the violations hearing examiner will enter an order of default with findings pursuant to KCC 9.56.050(4) and assess the appropriate monetary penalty pursuant to KCC 9.56.050(5). The county may enforce the violations hearing examiner's order and recover all related expenses, including attorney fees, plus the costs of the hearing and any monetary penalty from the person to whom the notice of abatement was issued. A copy of the order of default shall be mailed to the person to whom the notice of abatement was issued and against whom the default order was entered, the county, and if the person found responsible for the violation is a tenant, to the landlord or owner of the property where the violation is occurring.

(7) Time Period for Correction. If a notice of abatement is affirmed by the violations hearing examiner, the person responsible for the violation shall have thirty days to abate the violation and bring the property into compliance with the terms of this ordinance or the county may perform the abatement required therein, and shall bill the costs in manner provided in Section 9.56.060 of this chapter.

(8) Judicial Review. Any person with standing to bring a land use petition under Chapter 36.70C RCW, including the county, may seek review of the violations hearing examiner's decision by filing a land use petition in superior court and complying with all requirements of Chapter 36.70C RCW.

Section 9.56.060 Abatement by the county.

(1) The county may abate a condition which constitutes a nuisance under this chapter when:

(a) The terms of voluntary correction agreement pursuant to KCC 9.56.030 have not been met;

(b) A notice of abatement has been issued pursuant to KCC 9.56.040, a hearing has been held pursuant to KCC 9.56.050, and the required correction has not been completed by the date specified in the violations hearing examiner's order; or

(c) The condition is subject to summary abatement as provided for in KCC 9.56.060(2).

(2) Summary Abatement. Whenever any nuisance causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the county may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. If the person responsible for the violation is a tenant, notice of such abatement shall also be given to the landlord or owner of the property where the violation is occurring. No right of action shall lie against the county or its agents, officers, or employees for actions reasonably taken to prevent or

cure any such immediate threats, but neither shall the county be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person responsible for the violation.

(3) Authorized Action by the County. Using any lawful means, the county may enter upon the subject property and may remove or correct the condition that is subject to abatement. The county may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

(a) Removal of junk motor vehicles, vehicle hulk or parts thereof. If the owner or person found responsible for a nuisance involving a junk motor vehicle, vehicle hulk or any parts thereof fails to correct his/her nuisance within the date specified in the violations hearing examiner's order or notice of summary abatement, the county, upon notification from the Director, may enter the subject property to inspect and certify that a vehicle meets the criteria of a junk motor vehicle as defined in this chapter. The law enforcement officer or county agent making the certification shall record the make and vehicle identification number or license number of the vehicle if available and/or legible, and shall also document in detail the damage or missing equipment to verify whether the approximate value of the vehicle is equivalent only to the approximate value of the scrap in it (only if that is one of the definitional criteria that was alleged in the notice of abatement issued by the county). The vehicle shall then be photographed by the officer or county agent, removed from the property by the county, and disposed of by a licensed vehicle wrecker, hulk hauler, or scrap processor with notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been wrecked. The vehicle shall only be disposed of as scrap.

(i) Photographic record. The county shall maintain a photographic record of all abated junk motor vehicles for a period of two years following abatement. At the conclusion of the two year period, a written report, along with copies of the photographs, shall be forwarded to the Board of County Commissioners.

(4) Recovery of Costs and Expenses. The costs of correcting a condition which constitutes a nuisance under this chapter, including all incidental expenses, shall be billed to the person responsible for the nuisance and/or the owner, lessor, tenant or any other person entitled to control the subject property, and shall become due and payable to the county within ~~ten~~ fifteen calendar days of the date of mailing the billing for abatement. The term "incidental expenses" includes, but is not limited to, personnel costs, both direct and indirect and including attorney's fees; costs incurred in documenting the violation; towing/hauling, storage and removal/disposal expenses; and actual expenses and costs of the county in preparing notices, specifications and contracts associated with the abatement, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. All such costs and expenses shall constitute a lien against the affected property, as set forth in KCC 9.56.060(6).

(5) Interference. Any person who knowingly hinders, delays or obstructs any county employee acting on direction of the Director in the discharge of the county employee's official powers or duties in abating a nuisance under this chapter, shall be guilty of a misdemeanor punishable by imprisonment not exceeding ninety (90) days and/or a fine not exceeding \$1,000.

(6) Lien - Authorized. The county shall have a lien for any monetary penalty

imposed, the cost of any abatement proceedings under this chapter, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall run with the land, but 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 on a parity.

(a) The Director shall cause a claim for lien to be filed for record within ninety days from the later of the date that the monetary penalty is due, the work is completed, or the nuisance abated.

(b) The claim of lien shall contain sufficient information regarding the notice of abatement, as determined by the Director, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

(c) Any such claim of lien shall be verified by the Director, and may be amended to reflect changed conditions.

Section 9.56.070 ~~Additional enforcement procedures.~~ Environmental mitigation agreement for outdoor storage of junk motor vehicles on private property.

Pursuant to KCC 9.56.020(10)(b)(v)(A), an environmental mitigation agreement between a property owner and the Department is required before the outdoor storage of up to six screened junk motor vehicles will be approved. A property owner may enter into such agreement with the Department for a one-time fee of \$10.00 per vehicle. In order to mitigate any potential environmental impact from the storage of these junk motor vehicles, the property owner must agree to institute one of the following preventative measures:

(1) Each junk motor vehicle must be stored on a concrete or paved surface; or

(2) Each junk motor vehicle must have all of its fluids drained before being placed on the property; or

(3) Drip pans or pads must be placed and maintained underneath the radiator, engine block, transmission and differentials of each junk motor vehicle.

The agreement will require the property owner to select one of the three preventative measures and to allow for an initial inspection of the property by the Department to assure that the preventative measure has been implemented to the satisfaction of the Department. By entering into the agreement, the property owner further agrees to allow the Department entry onto the property on an annual basis for re-inspection to assure compliance with the approved agreement. A property owner found to be in violation of the agreement may be fined a monetary penalty in accordance with KCC 9.56.040(5), and the property may be deemed a nuisance in accordance with the provisions of this chapter.

Section 9.56.080 ~~Removal of personal property and/or solid waste placed onto public access or private property.~~ Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by this code.

Section 9.56.090 Conflicts. Removal of personal property and/or solid waste placed onto public access.

(1) Once personal property and/or solid waste belonging to an evicted tenant has been placed onto public right-of-way ~~or private property~~ pursuant to a court-ordered eviction per Chapter 59 RCW, the ~~evicted tenant/owner~~ of the personal property and/or solid waste or ~~their~~ his/her designee shall have twenty-four hours to remove said personal property and/or solid waste from the public right-of-way ~~or private property~~. Notice of such removal after twenty-four hours shall be given to the evicted tenant/owner of the personal property and/or solid waste or his/her designee. If, after twenty-four hours, the ~~evicted tenant/owner~~ or ~~his/her~~ designee has not removed the personal property and/or solid waste from the public right-of-way, ~~or private property~~ the property shall be ~~deemed abandoned and considered as litter~~ deemed a nuisance, and the ~~landlord/property owner~~ or his/her designee shall remove the personal property and/or solid waste for proper disposal within forty-eight hours or the county shall seek to abate the nuisance, pursuant to KCC 9.56.060, to be billed to the ~~landlord/property owner~~ or his/her designee.

Section 9.56.100 Conflicts. Representation by Attorney.

In the event of a conflict between this chapter and any other provision of the Kitsap County Code or other county ordinance providing for a civil penalty, this chapter shall control.

Section 9.56.110 Representation by Attorney.

(1) A person subject to proceedings under this chapter may appear on his or her own behalf or be represented by counsel.

_____ (2) The prosecuting attorney representing the county may, but need not, appear in any proceedings under this chapter.

Section 2. Severability. If any section, subsection, clause or phrase of this ordinance or amendment thereto, or its application to any person, entity or circumstance, is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

Section 3. Effective Date. This ordinance shall take effect immediately.

Dated this ____ day of _____, 2001.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

CHRIS ENDRESEN, Chair

JAN ANGEL, Commissioner

TIM BOTKIN, Commissioner

ATTEST:

Holly Anderson,
Clerk of the Board

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kitsap County Board of Commissioners will continue a public hearing on June 4, 2001 at the hour of 10:00 AM, in its chambers, County Administrative Building, 614 Division Street, Port Orchard, WA, to consider an **Ordinance** relating to the abatement of conditions which constitute a public nuisance and adding a new Chapter 9.56, "Public Nuisances," to the Kitsap County Code and further summarized as follows:

The ordinance relates to the abatement of conditions that constitute a public nuisance and adding a new chapter 9.56, "Public Nuisances" to the Kitsap County Code. The purpose of the chapter is to establish an efficient system to enforce the land use and public health regulations of the county, and to provide an opportunity for a prompt hearing before a violations hearing examiner employed by the Kitsap County Board of County Commissioners and decision on alleged violations, and to establish penalties for violations, including abatement of violations.

Included in the definition of public nuisance is the existence of the following conditions: trash covered premises; dangerous structures; broken or discarded furniture, household equipment and furnishings in any yard or vacant lot; abandoned shopping carts; potential vermin habitat or fire hazards; junk vehicles; attractive nuisances; obstructions to the public right-of-way; vegetation posing risk of damage or injury; illegal dumping and dumping in waterways.

The chapter provides a method for property owners to enter into a voluntary correction agreement with the county to remedy violations constituting a public nuisance, and a means for the county to efficiently abate nuisances that are not corrected through the voluntary correction process or that constitute an emergent risk to public safety.

ALL THOSE INTERESTED are welcome to attend.

HOLLY ANDERSON
Clerk of the Board of
Kitsap County Commissioners

NOTE: KITSAP COUNTY DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY. INDIVIDUALS WHO REQUIRE ACCOMMODATIONS, SHOULD CONTACT THE COMMISSIONERS OFFICE AT (360) 337-4428 OF TDD (360) 337-7275 OR 1-800-816-2782. (PLEASE PROVIDE TWO WEEKS NOTICE FOR INTERPRETER SERVICES).

Publication Date: May 16, 2001
The Kitsap Newspaper Group

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kitsap County Board of Commissioners will continue a public hearing on February 27, 2001 at the hour of 7:00 PM, at the Presidents Hall Kitsap County Fairgrounds, 1200 NW Fairgrounds Road, Bremerton, WA, to consider an Ordinance relating to the abatement of conditions which constitute a public nuisance and adding a new Chapter 9.56, "Public Nuisances," to the Kitsap County Code and further summarized as follows:

The ordinance relates to the abatement of conditions that constitute a public nuisance and adding a new chapter 9.56, "Public Nuisances" to the Kitsap County Code. The purpose of the chapter is to establish an efficient system to enforce the land use and public health regulations of the county, and to provide an opportunity for a prompt hearing before a violations hearing examiner employed by the Kitsap County Board of County Commissioners and decision on alleged violations, and to establish penalties for violations, including abatement of violations.

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Publication Date: February 14, 2001
The Kitsap Newspaper Group

8-22-01

Kitsap County Commissioner Jan Angel
614 Division St
Port Orchard, WA 98366

Dear Commissioner Angel,

Your attention is invited to the enclosed letter to the Editor by Mike Carroll re government's power over property-owners rights.

The proposed ordinance is just another step in the unconstitutional seizure of our rights and at our cost.

It is urged that you vote against this ordinance.

Sincerely

Richard G Roman

1 End
a/s



*

No benefit to me

To the Editor:

I am not a car buff or a junk car enthusiast. I am a citizen who is concerned about government gaining a new foothold of power over my property.

The great benefits that I would receive from the nuisance ordinance would be a new \$10 tax and an environmental requirement.

I believe I have lost enough property rights to the environmental movement.

The citizens of Washington voted for I-695 to gain relief from repressive taxes related to vehicles.

If my neighbor builds a junkyard next to me, he has limited resources and a limited life span. The only nuisance I see developing is government control over my peace and property.

Let's forget the nuisance ordinance.

Mike Carroll
Port Orchard

Mr. Richard R. Romane
7500 NW Willcat Lake Road
Bremerton, WA 98312-9547



111111111111



San Angel, Commissioner
King County Commission
Left Division St. 98366
Port Orchard, WA



August 21, 2001

Robert Cook
3717 Burwell Street
Bremerton, Wa. 98312

COPIES INDIVIDUALLY
ADDRESSED TO ALL
THREE (3):



Commissioner Jan Angel;

Regarding the August 27 hearing on the revised "Nuisance - pink car ordinance" proposal, I want to again register my opposition to it. All of the vehicles I own are three (3) years or older although only four (4) of them would be considered under this proposal. They are all Toyota Land Cruisers (2-FJ40's, 2-FJ45's). Two are drivable, two are not. My wife and I plan a move to Sunnyslope and plan a fenced off area for these vehicles pending restoration of the FJ45's. Engineless vehicles seldom leak much oil or other fluids. Neither do vehicles that are not moved much.

Therefore, I see the mitigation fee as excessive (maybe job-making) and registration of these vehicles akin to registration of a handgun. Fencing vehicles is "ok", but I do not want a pink-car watchdog (paid by mitigation fees) on my property. I respect my neighbors and will use common sense due-caution.

Respectfully yours
Robert Cook

Presented at Pub Hear
by Thomas Perry for
8-27-01
Ha



Brad Perry

From: <youngcf@cs.com>
To: <distaff@myexcel.com>
Cc: <youngcf@cs.com>
Sent: Monday, August 27, 2001 4:00 AM
Subject: speech

Thomas Perry, from Poulsbo.

A nuisance ordinance? Is that what you call these 13 pages of invasive, dictatorial, tyrannical tripe?

You the commissioners, Ms. Porteus of the civil prosecutors office, and Mr. Grimm's code enforcement are the true public nuisance.

Why? Because you have caused all of these good people here to take off from work and attend 3 separate hearings. These citizens are here for the distinct privilege of fighting our own government over rights that are to most, beyond question

The right to Life, liberty, and the pursuit of happiness.

The right to have and hold private property.

The right to reasonable government.

These are the kind of rights that we Americans have been known to spill blood over.

With that said and freshly in your minds;

Just exactly who, do you people think you are?

If this was 1776 would you like to take a guess at who might be swinging from the lampposts?

It would seem that once again that you people need to be reminded that you work for us.

And being one of your employers, I will be damned if I am going to pay you to strip me of my rights.

How about rest of you guys?

(turn to the crowd)

SHOULD WE BE PAYING THEM FOR THIS?

By the way, at nearly 2000 dollars a week, you commissioners are way, WAY, over paid.

As a matter of fact, you probably should be paying us at least \$100 a week for putting up with this arrogant nonsense.

If, for a change, the county wants to generate some honest revenue, why not try keeping track of the chronic complainers that brought us here today.

You should be charging them a \$50 service fee for each complaint they file, and like in your Nuisance Ordinance, under removing junk cars, you could snap a picture of each chronic complainer that would be kept as evidence of a public nuisance. And, to make it feel more like a legitimate government function, you would then start a new "chronic complainer" department to keep the mug shots on record for 2 years.

Limit your number of complaints with fees, and this foolish nuisance ordinance won't be needed. Neither would the proposed modifications to the zoning ordinance be needed.

Now there is a real solution to your complaint problem.

Mr. Grimm proposes 12 pages of changes to the zoning ordinance concerning what constitutes an "Accessory Use." He is pushing for these changes because the District Court found that our Automotive Hobbies Activities, including parts and parts cars, are currently lawful and allowed in this county.

This finding is completely contrary to Grimm's incessant crowing and bullying the public on this issue.

And, for the benefit of the concerned public listening;

If Mr. Grimm, Quatermass, or anyone else from code enforcement ever tells you that you must do something, or that something else isn't allowed; always demand right there on the spot to see his legal authority.

That legal authority must be a clearly written law, not just his interpretaion.

You will likely find that no written authority to back up his assertions or demands.

That is exactly what the court found.

I will close with one last thought.

This nuisance ordinance clearly is being marketed as a blanket of public safety over private land.

This oveture sets a very danger precedent where the county will be left responsible for maintaining safe conditions on any and all private land.

Extrapolating further;
The county would then be liable for damages if any unsafe condition on any private land resulted in injury to anyone.

Even if the injured party was the property owner or his family.

Are we really stupid enough to go there?

Both these proposals are bad ideas.

You, the commissioners, must wash your hands of both of them.

From: Tracy W Tucker <greycam1@juno.com>
To: <commissioners@co.kitsap.wa.us>
Date: Mon, Aug 27, 2001 10:35 AM
Subject: Nuisance Ordinance

Dear Commissioners:

I am in possession of an inflammatory paper which purports to represent car "hobbyists" and urges readers to contact you and demand that you discard the nuisance ordinance and the proposed changes to the zoning ordinance relating to junk motor vehicles.

Contrary to these urgings, I am in strong favor of the changes with the following concerns:

1. In the matter of the requirement to enter into a contract with the county to allow inspectors on to property to examine junk cars: I believe this would violate a person's constitutional rights. Instead, I would agree with the inspector's right to "make contact" with the property owner/holder to determine the status of suspect vehicles.
2. In order to protect the "true" hobbyist who is working on a project car or truck, I would ask that consideration be given to this circumstance with the understanding that any provision for such vehicles not become a "loophole" in the ordinance.

On another matter, the paper demands that the county Code Enforcement be "shut down, as they are both unprofessional and out of control". I have found Mr. Baker and Mr. Quatermass to be very helpful and businesslike. In my capacity as Vice President of Shore Woods community in Hansville, I am "waging war" on junk vehicles and those which are illegally parked on our streets. The Code Enforcement dept. has been my point of contact and I appreciate what they do. It's all about living in a clean environment and protecting our investment.

Thank you for your consideration of these important matters. Feel free to contact me.

Tracy Tucker
5921 Cedar Ct. N. E.
Hansville, WA
360-638-0157
greycam1@juno.com



August 31, 2001

Kitsap County Commissioners

Dear Commissioners;

This is relative to title 17, Storage of Junk Vehicles on Private Property.

A vehicle that cannot be seen by a neighbor or from a public road does not fit the definition of public nuisance. As to the definition of "junk motor vehicle" meeting three of our requirements, I disagree with parts "a" and "d". I feel that if a vehicle is older, it is more likely to be usable by a car collector or hobbyist. I think this should say, "Is newer than 30 years old". As to part "d", who is going to determine the fair market value? One door handle, a piece of chrome, a brake drum, might each be worth more than the whole vehicle as scrap.

As to requiring a vehicle to either have the fluids drained or something to catch these fluids, I know of cars that have sat for thirty years. If there were to be any leakage it would have happened long ago. If we were to have a vehicle taken to a wrecking yard it would not have drip pans put under it, just like the rest of the cars at the wrecking yard. If you want to clean up the environment, just go to any wrecking yard. If someone wants a power steering unit, they cut the hoses and let the fluid run on the ground. When motors, transmissions or radiators are removed, the fluids run on the ground.

I strongly object to someone coming on to my property for these inspections and registrations. I also object to the ten-dollar fee. These rules would not clean up the mess in front of a house on Mitchell Avenue in Port Orchard, which is a real eyesore.

If this proposal goes into effect it will cause many people who are normally law-abiding citizens to break the law by not telling you about their vehicles.

Sincerely,

Alfred L. Larson
Port Orchard, Wa.

Al Larson

AUG 30, 1991

COUNTY COMMISSIONERS
KITSAP COUNTY

RECEIVED

AUG 31 2001

HAND
DELIVERED

SUBJ: PROPOSED NUISANCE ORDINANCE

I HAVE ATTENDED ALL THE PUBLIC MEETINGS ABOUT THE PROPOSED ORDINANCE AND I CONCUR WITH THE MAJORITY (ABOUT 100%) OF THE SPEAKERS WHO OPPOSE THE ORDINANCE.

OF PARTICULAR CONCERN TO ME ARE THE FOLLOWING ISSUES:

1) AN ACT OR DUTY THAT "ANNOYS", ETC - OTHERS. ANYONE CAN BE "ANNOYED" BY SOMETHING VERY INSIGNIFICANT IF SOMEONE DOESN'T LIKE YOU OR ANY PART OF YOUR PROPERTY. "ANNOYS" MUST BE TAKEN OUT OF THE ORDINANCE.

2) THE MULTITUDE OF 'CONDITIONS' WILL BE A NIGHTMARE TO ENFORCE. YOU KNOW, AND SO DO I, THAT 99% OF ALL RURAL PROPERTIES HAVE A POTENTIAL VIOLATION UNDER THE PROPOSED ORDINANCE. THIS IS NOT ACCEPTABLE.

3) DUMPING IN WATERWAYS - WHO IN THE WORLD WOULD ATTEMPT TO DO ANYTHING AROUND A WATERWAY UNDER THE DETAILED CONDITIONS OF THE

"PROPOSED ORDINANCE. ALSO, WHO IS THE APPROVING AUTHORITY" AND WHAT PERMITS, COSTS, ETC - WOULD THERE BE? AS A WATERFRONT OWNER, I STRONGLY OPPOSE THIS AS WRITTEN.

4) REPORTING OF A CONDITION - IF A NUISANCE ORDINANCE IS EVER ADOPTED IT IS IMPERATIVE THAT THE "REPORTING PROCESS" INCLUDE:

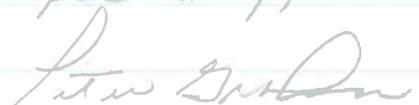
- A DETAILED WRITTEN REPORT
- SIGNED BY THE ACCUSER
- CERTIFIED BY THE COUNTY OFFICIAL
- COPY MAILED TO THE ALLEGED VIOLATOR

I HAVE TWO REQUESTS:

1) THAT THE PROPOSED NUISANCE ORDINANCE BE PUBLISHED BY KITSAP COUNTY NEWSPAPERS (INTERNET IS NOT ADEQUATE) BEFORE THE ORDINANCE IS ADOPTED.

2) THAT THE COUNTY COMMISSIONERS REALLY ACKNOWLEDGE THE FEELING AND WISHES OF ALL THE PEOPLE AND NOT LET THE PROBLEMS OF A FEW PEOPLE DRIVE THE DECISION TO IMPLEMENT SUCH A COMPREHENSIVE, COSTLY AND PROBABLY NOT ENFORCABLE ORDINANCE.

RESPECTFULLY,



PETER GRAHAM
(360) 308-9706

Copy: BREMERTON Sun

PETER GRAHN
8018 ILLAHEE RD
BREMERTON, WA 98311

8/31/01

KITSAP COUNTY COMMISSIONERS
FOOT ORCHARD, WA

ORIGINAL

Aug 29, 2001



Dear County Commissioner,

I was the second person to talk at the meeting about the Public Nuisances Ordinance, I ran out of time so I would like to finish here.

I'll write the most important thing first. I think the best way to stop people from leaving junk in their yards would be to make garbage pick-up mandatory county wide. You could also reduce the dump fees. A friend took an old bed and springs to the dump and it cost him \$40.⁰⁰!! Poor people or retired people on a fixed income can hardly pay rent, buy food, and pay medical costs. Garbage is their last concern. It either stays in their yards, is dumped along the side of the road, or burned illegally at night like our neighbors do.

I have some questions about the wording of the ordinance, when you say "screened from the neighbors", do you mean the neighbor's yard or their upstairs bedroom window in a two-story house? We are not allowed to put up a 20 foot tall fence! What could a person do?

You say "junk motor vehicles, vehicle hulks, or any parts thereof". If we have one car and take 4 fenders off and 2 doors off, we now have 7 pieces of a car. Is this considered one disassembled car and we are legal or is it now considered 7 parts thereof and we are illegal?

I think your fee (tax) is totally unfair. If old junk cars are fined because they look trashy, then you also need to fine stored boats, motor homes, campers,

trailers, tractors, construction vehicles (bulldozers etc.) yard equipment (lawn mowers etc.) and piles of junk. If the fee is to pay the salary for a person to check on pollution hazards, then besides old cars, boats, motor homes, construction vehicles, lawn mowers, and any other thing with a motor that runs on gas and oil should also be fined. Don't pick on people with old cars only!

I totally agree with you that something needs to be done about trashy front yards that bring down the value of the neighborhood, but things in a screened-from-view backyard do not hurt anyone else. The King County Ordinance puts no amount on the number of cars a person can have, just that they be screened from view. Why not make Kitsap the same?

In a murder investigation, police must first get a search warrant before going into some one's backyard and looking through their things, but you want to make it okay to trespass and go through people's cars. A murderer would have more rights against search and seizure than some poor home owner who has 1 more car than the 6 allowed.

Pass an ordinance, it is needed. Eyesores must be cleaned up!! But allow any number of cars, with no fee, in a screened-from-view backyard.

Thank you for taking the time to read this. I know you must have read hundreds of them already.

Thank you,
Judith Gluba
3680 S.E. Bear Tree Ln
Port Orchard, WA. 98367

Nuisance Ord.

ORIGINAL

Bill Arness

22777 Indianola Rd. NE
Poulsbo, WA 98370
(360)598-4800/(206)842-5959

August 31, 2001

Kitsap County Commissioners
614 Division
Port Orchard, WA 98366

SUBJECT: Proposed Nuisance Ordinance Revisions

I am happy that the commissioners appeared to say that odors animal waste and vermin habit statements will be corrected. You said you would also correct the definition of legal building in Section 9.56.020 paragraph (3). I feel there are many more items that need to be addressed, besides the above; the following are a few of them.

1. **Under Section 9.56.010**
Inadequate Light – To many trees or brush?
Inadequate Drainage – Empty all the wetlands?
Sanitary Facilities – Under BKCHD?
Overcrowding – Fire Departments determination?
2. **Under Section 9.56.010(9)**
Heights issue must be addressed also the neighbor can complain only if this “Junk Car” is visible from the most used part of neighbor’s property or i.e. 75%.
3. **Under Section 9.56.010(10)a**
You are removing free use of owner property by living by the neighbor’s wishes and the accepted values the County has today.
4. **On page 4 under paragraph (A) (Vii)**
Unsecured or abandoned excavation is a nuisance. I feel this should be rewritten or left out. There are other departments with these ordinances.
5. **Page 5 item (17)**
Screened must be altered especially elevation and distance from property line.
6. **Page 5, item (18)**
The definition of VEHICLE under your wording would include travel trailers, boats (they can be transported or drawn upon a highway), also farm tractors and their implements such as hay mower, bailer, dump rakes etc. Time to go back to the meeting room and decide that we do not really have a problem. You commissioners are creating a monster.

Bill Arness, August 31, 2001

Nuisance Ordinance

page 2

7. **Section 9.56.030 (F)**

County may recover its costs and expenses after repeated violation. This is under the voluntary correction agreements, so why change them if they agreed to correct it. You are removing any incentives for the homeowner to correct the problem. If the County is going to charge them for an alleged violation, they may think, "why fix it?". I feel they should be charged "hard" on the second one, not on the first go around. We need voluntary compliance not a police state.

8. **Section 9.560.40, Page 8 Sec (3)**

Service of Notice if owner not able to be contacted. Public notice in the paper must be done also – not just posting the property.

9. **Section 9.56.050 (3) (a)**

States that property owners who proved they did not place Junk Vehicle on property, is not financially liable. This should be increased to white goods and garbage.

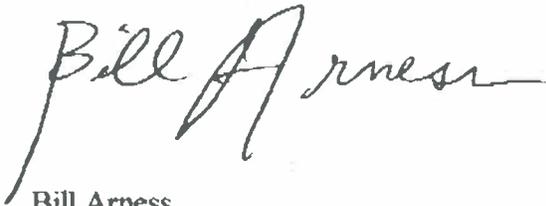
10. **Section 9.056-060 page 11 (4)**

Cost and Expenses chapters not in harmony with other Sections. Ref 9.56.050

11. **Section 9.56.060 ReLein (6) (a)**

Why file a lien if the work is completed or nuisance abated?

Sincerely,



Bill Arness

Cc: file

Bill Arness
22777 Indianola Rd. NE
Poulsbo, WA 98370
(360)598-4800/(206)842-5959

August 31, 2001

Kitsap County Commissioners
614 Division
Port Orchard, WA 98366

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CE
to file

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11. Section 9.56:060 ReLien (6) (a)

Why file a lien if the work is completed or nuisance abated?

Sincerely,



Bill Arness

Cc: file



PUBLIC HEARING GROUND RULES PUBLIC NUISANCE ORDINANCE

- 1) This hearing is to take comment on the ordinance. Please limit your comments to the ordinance.
- 2) We will not accept comments regarding the performance of individual employees. If you have an issue with an employee, please see us individually, Malcolm Fleming, or the employee's supervisor
- 3) There is a 3-minute limit per speaker. This will be strictly enforced in order to allow everyone the opportunity to speak. Comments over 3 minutes can be submitted in writing by 4:30 PM August 31, 2001.
- 4) If you agree with a previous speaker, please state this instead of repeating testimony already given. This gives everyone a better chance to be heard.

BOARD OF COUNTY COMMISSIONERS

August 27, 2001

IF YOU WISH TO SPEAK ON THIS MATTER, PLEASE SIGN-IN
(The Board of Commissioners' public meetings are audio and video taped. By signing in, you grant your permission to be taped).

RE: 10:00) E Continuation of a public hearing to consider an **Ordinance** relating to the abatement of conditions which constitute a public nuisance and adding a new Chapter 9.56, "Public Nuisances," to the Kitsap County Code. The Board of Commissioners will also consider an **Ordinance** amending Title 17 of the Kitsap County Code, "Zoning," pertaining to the storage of junk motor vehicles on private property to correspond to the provisions of the Nuisance Ordinance.
Total Cost: Unknown enforcement and cleanup costs, including estimated costs of \$75-\$125 per car for removing and appropriately recycling or disposing of an unknown number of cars.
Funding Source: General Fund—The County's costs of clean-up will be liened against the property and recouped at the time of property sale, refinance or other real estate transactions.

(NAME AND ADDRESS - please print)

11:17
LAST

- 1. ~~JOHN KINCL - 6697 N. VANDECAR RD SE PORT ORCHARD~~
- 2. ~~HOWARD JACKSON 200 NE PADLSON RD BUNSB~~
- 3. ✓ JUDITH GLUBA 3680 S.E. Bear Tree Ln. Post Orchard
- 4. ~~MARK DOUGHERTY 25059 WAGHORN RD POWLSKID WA.~~
- 5. ✓ CHUCK BARKER 9810 RICHARDSON RD BREMERTON
- 6. ✓ AL LARSON, 8911 GLENWOOD RD, SW PORT ORCHARD
- 7. ✓ JIM BABBIT 4879 PHILLIPS RD SE PORT ORCHARD
- 8. ✓ JERRY DARNALL 25789 MILLER BAY RD KINGSTON

- ~~9.~~ Bill A RIVESS RURAL POUYSBO
- ~~10.~~ Jane Brewer, BKCHD
- ~~11.~~ Thurman Whiteley
- ~~12.~~ Bruce Muhlman
- ~~13.~~ THOMAS B PERRY / Colin Young
- ~~14.~~ DON SHOOP Southwold
- ~~15.~~ Roy Ross Poulsbo
- ~~16.~~ Scott Headen Kingston
- ~~17.~~ Howard JACKSON 700NE Paulsen Rd Poulsbo
18. Bob Andrews - see sheet 3
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____
25. _____

BOARD OF COMMISSIONERS MEETING
PUBLIC TESTIMONY
SIGN-UP

✓ Matt Ryan

✓ Merry Stever

✓ Rick Lopez

✓ Pally Geis (jke)

NUISANCE

BOARD OF COUNTY COMMISSIONERS

August 27, 2001

IF YOU WISH TO SPEAK ON THIS MATTER, PLEASE SIGN-IN
(The Board of Commissioners' public meetings are audio and video taped. By signing in, you grant your permission to be taped).

RE: **10:00) A** Public hearing to consider an application filed by **Richard G. Frederickson** for Current Use Assessment Open Space on a 15.12-acre parcel located at 21577 Big Valley Road in North Kitsap, Commissioner District No. 1.

Total Cost: No net cost. Approving this application will increase the taxable value of the subject property. This will increase the total taxable value of property in Kitsap County and result in a very small (less than one penny per parcel) reduction in the property taxes for all other parcels in Kitsap County.

Funding Source: None required.

(NAME AND ADDRESS - please print)

1. ~~JOHN KING - 6697 N. VANDEGRAD - PORT OR~~
2. ~~CHUCK~~
3. Bob Andrews 3348 Seabeck Hwy Brem.
4. Jan Brander
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Rec'd at Pub Hearing
from Dan Shoop
8-27-01 *ds*

D. L. Shoop
4205 Ridgecrest Way SE
Southworth, WA 98386
27 Aug 01

COMMENTS TO NUISANCE ORDINANCE NO. _____ (8/2/01)

Section 9.56.020 Definitions

- (9) "Junk Motor Vehicle" means a motor vehicle that has an approximate fair market value equal only to the approximate value of the scrap in it as determined by a published price guide or as determined by a knowledgeable vehicle appraiser and meets at least two of the following requirements:
- (a) Is three years old or older;
 - (b) Is apparently inoperable;
 - (c) Is extensively deteriorated, such deterioration including but not limited to any of the following: broken or missing windows or windshield, missing major body components, missing or nonfunctional motor or transmission, extensive body damage, or a buildup of debris that obstructs use.

"Junk Motor Vehicle shall not - - - - - RCW 46.80.130.

- (22) "Valid Complaint" means a complaint to the Director by a person whose property values would be assumed to be degraded because the person can easily see the alleged nuisance from his own private property or because the public would normally have to drive by the alleged nuisance property in order to reach the complainant's property.

Section 9.56.030 Voluntary Correction

- (1) Issuance.
 - (a) When the Director, after investigating a valid complaint, determines that a violation - - - - requesting correction.

Section 9.56.040 Notice of Abatement

- (1) Issuance
 - (a) When the Director, after investigating a valid complaint, determines that a violation - - - - alleged violation.

Section 9.56.050 Hearing before the violations hearing examiner.

(7) Time Period for Correction. If a notice of abatement - - - - the person responsible for the violation shall have a reasonable time period, as determined during the hearing, to abate the violation - - - - Section 9.56.060 of this chapter.

Section 9.56.070 Environmental Mitigation Agreement for outdoor storage of junk motor vehicles on private property.

Pursuant to - - - - will be approved. A property owner may enter into such agreement with the Department for a one-time fee of \$TBD per property. In order to mitigate - - - - the following preventative measures:

- (1) Each junk motor vehicle - - - - paved surface; or
- (2) Each junk motor vehicle - - - - on the property; or
- (3) Drip pans or absorbent material must be placed and maintained to collect any visibly leaking fluids from stored vehicles or when dismantling any part of a stored vehicle when a fluid leak may occur.

8-24-01 Olympian

Men crusade against junk cars



Photos by Kent Treptow/The Olympian

Rob Kavanaugh points out an old car parked in his neighborhood south of Lacey on Wednesday. Kavanaugh and another resident, Denny McHugo, are concerned junk vehicles degrade the appearance of the neighborhood.

Not all neighbors share distaste for stationary vehicles

BY JOHN GRABER
THE OLYMPIAN

THURSTON COUNTY — Rob and Mildred Kavanaugh like to spend evenings walking through the neighborhood with their grandchildren.

The quietness of the Glen Terra neighborhood south-east of Lacey is ideal for twilight strolls, and it drew them to the area when they bought their home 16 years ago.

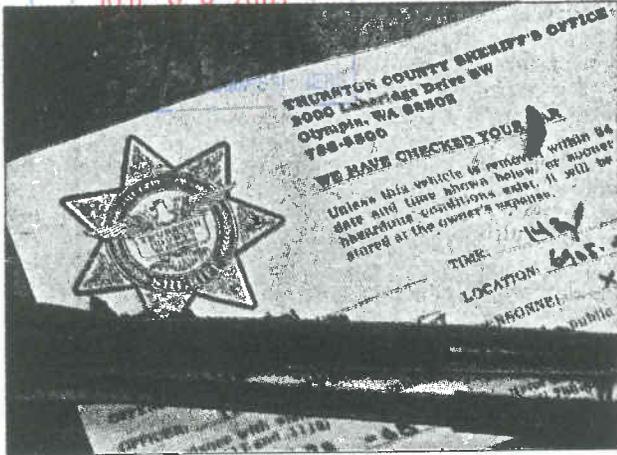
"It was a beautiful neighborhood," Rob Kavanaugh said. "We had small children, and it was a good place for them."

But he doesn't like what he's been seeing the last couple of years during his walks.

A proliferation of junk vehicles that never move — some don't even have tires — has sprung up in the neighborhood of about 65 homes.

He counts as many as 10 in front yards and on the neighborhood's streets. Kavanaugh and neighbor Denny McHugo, a 26-year resident of the neighborhood, figure one truck has sat in a neighbor's front yard for a decade.

The cars are ugly and a safety risk for children, and



A warning tag from the Thurston County Sheriff's Office rests on the windshield of a car parked on a street in an unincorporated neighborhood south of Lacey on Wednesday. The tag is warning the owner to remove the vehicle or risk having it towed.

they attract rats and crime, the men contend. Some of the fluids that could leak out of the vehicles present environment risks, they said.

But most of all, they're worried the vehicles are detracting from the value of their homes.

"If you lived here and tried to sell your home and there was a junk car sitting in the yard next door, you

would not get what it's worth," Kavanaugh said.

The men have asked neighbors to remove the vehicles and have gotten mixed responses.

"We've had everything from absolute refusal to even recognize the homeowners association to absolute cooperation," McHugo said.

They leave letters on doors reminding folks that

Enforcement meeting

The Thurston County Commission will hold a public meeting to consider ways to better enforce land-use regulations, including getting rid of junk vehicles, at 10:30 a.m. Sept. 18 at the county courthouse, 2000 Lakeridge Drive S.W., Building 1, Room 280. For more information, call 360-786-5440.

the neighborhood covenants, which everyone must sign before they move in, prohibit junk vehicles left in the public's view.

The neighborhood association can fine homeowners up to \$250 for leaving dead cars in front of their homes, but nobody is willing to serve on the association's board, making it effectively defunct.

So the two men have taken up the task of enforcing the regulations themselves.

"We've written into the

See **CARS**, Page B2

From: <Knurl@aol.com>
To: <commissioner@co.kitsap.wa.us>
Date: 8/26/01 9:40PM
Subject: Please read into minutes of tomorrow's Comm meeting.

Please have the following entered into the record of Kitsap County Commissioner meeting of 8/26/01

Please do not approve the "public nuisance" ordinance as revised 8/2/01 for the following reasons:

In past televised commissioner meetings registered cars were stated as exempt from the ordinance. However, the ordinance does not address exemption of a properly licensed vehicle. This is an important omission. Was it intentional? Why was it omitted?

The criteria for "junk motor vehicle" is too broad and without foundation in reason. For example, what is the basis for the three year cutoff point? Why not 1 year, or 10 years or some other arbitrary number. Why list an age at all? A one month old car that has been in a high speed accident or burned and transported to the property is certainly closer to being junk than a 25 yr old car with a cracked side window, wheel missing and hasn't been washed in some time, however not per the ordinance.

Apparently inoperable needs better foundation. Apparent to someone with what qualifications? Inoperable--able to be returned to operation within what period of time. Hours, days, weeks, months etc.? Define the distinction between looking inoperable to "Aunt Clara" and something fairly evaluated by someone with adequate qualifications in the automotive industry. The repeated inadequacies of the ordinance revisions demonstrate that not everyone has adequate knowledge in things automotive.

The enclosure provision of the proposed ordinance would seem to prevent me from doing my own automotive repair in my driveway in front of my garage, visible to the street and neighbors. If an enclosure must have three sides, then it becomes prohibited to do repairs or store a vehicle in anything but a garage. No repairs in a car port? If my garage is filled to capacity with my automotive treasures in compliance with the proposed ordinance and my wife's 4 yr. old car needs repair, am I forbidden to perform those repairs on the area in front of the garage? Why? Is there an intended distinction between a stored less than perfect three + year old vehicle and one that is normally regularly driven, but undergoing repairs? Is there an intended time restriction for how long it takes me to restore her car to operation? Assume that I have 3 fully functional cars and only need to drive two and one of them becomes in need of significant repair in the rainy season. Must I work in the rain for fear of my broken car being labeled as a nuisance? How long am I allowed to affect the repairs? What if I fall ill, am required to work long hours or just don't have the desire to work in the rain, will I not be allowed to decide when I'll repair a car that I don't need right now, but choose to keep?

The provisions of the recently added requirement for environmental mitigation agreement, six cars, annual inspections, registration etc. are without basis in any sort of engineering principle. e.g. The concerns for drippage of fluids. Inoperable cars don't drip. It's the cars that are running with leaking seals and continued fluid replenishment that leak. Look at the paving surface of any parking lot. They all show lots of signs of fluid leakage, all from operable cars. I'd venture that virtually none of it came

from inoperable cars. A concrete or asphalt pad does not prevent leaked fluids from entering the environment. If so all parking lots would be deep in oil as none of it could have escaped. If a car is stored on a paved pad and drips, as soon as it rains, the drippage runs to the adjacent soil. What is gained by requiring the pad other than business for concrete finishers? If the various arms of the many environmental agencies have not taken steps to impose regulations on the private storage of inoperable cars regarding concern for drippage, what qualifies/spurs the commission to attempt to do so? Has the commission contracted with any environmental group for any research on the subject? Wouldn't that be prudent?

The enforcement portion goes to unnecessary lengths to circumvent any hint of due process, and that just isn't the way you should be willing to treat anyone. I know that the county has been battling with a few individuals that seem insistent on defying authority. And it appears that in your desire to put the matter to bed once and for all you are willing to kill all the car folks and let God sort them out.

I've recently retired and have spent most of my life acquiring automotive skills and tools in preparation for enjoying working on cars through the golden years. I just want to be able to work on my cars at my schedule. I have no desire to live in a hovel and do not, however my wife and I don't consider having a couple of works in progress parked on our property as a nuisance, or harming others and sincerely believe that you shouldn't either. If she can live with my harmless quirks, and my neighbors of 25 years have not complained up till now, why do you apparently feel that the county has a need to make things tough for me?

I must miss tomorrow's (8/27/01) meeting as I am removing the engine on my 30 yr old pickup to do some transmission repairs before going on an extensive trip to Colorado pulling a trailer. At the moment it meets most of the junk car criteria of the proposed ordinance. Two days ago it was fully operable, but dripping transmission fluid. Next week it will be fully operable again, but still old, in need of paint and hopefully not dripping transmission fluid. It is in full view of the neighbors and passersby. I don't believe it's harming any of them or causing anxiety for anyone but me.

If you are seriously interested in drafting a fair and reasonable ordinance that addresses the unauthorized junk yard/eye sore problem that I believe you originally sought to resolve, I am willing to help. I have no affiliation to any car club although I do have extensive automotive knowledge, was a dealership mechanic several years ago as well as have a long background in preparing well-written good guidance documents for the nuclear industry. Please contact me if I can be of any assistance. If we're going to expend the effort to fix a problem, let's do it correctly.

Sincerely
Russ Robinette
4650 Arvick Rd. S.E.
Port Orchard, WA
(360)871-1308

From: Teresa Cochran
To: Angel, Jan; Botkin, Tim; Endresen, Chris
Date: 9/21/01 4:31PM
Subject: Nuisance Ordinance

Mary Paschke (360-479-2747) called to express her support for the nuisance ordinance. She says her neighborhood has a few problem lots that she and most neighbors would like to see cleaned up.

CC: Robertson, Opal

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kitsap County Board of Commissioners will continue a public hearing on October 22, 2001 at the hour of 10:00 AM, in its chambers, County Administrative Building, 614 Division Street, Port Orchard, WA, to consider an **Ordinance** relating to the abatement of conditions which constitute a public nuisance and adding a new Chapter 9.56, "Public Nuisances," to the Kitsap County Code and further summarized as follows:

The ordinance relates to the abatement of conditions that constitute a public nuisance and adding a new chapter 9.56, "Public Nuisances" to the Kitsap County Code. The purpose of the chapter is to establish an efficient system to enforce the land use and public health regulations of the county, and to provide an opportunity for a prompt hearing before a violations hearing examiner employed by the Kitsap County Board of County Commissioners and decision on alleged violations, and to establish penalties for violations, including abatement of violations.

Included in the definition of public nuisance is the existence of the following conditions: trash covered premises; dangerous structures; broken or discarded furniture, household equipment and furnishings in any yard or vacant lot; junk vehicles; attractive nuisances; obstructions to the public right-of-way; vegetation posing risk of damage or injury; illegal dumping and dumping in waterways.

The chapter provides a method for property owners to enter into a voluntary correction agreement with the county to remedy violations constituting a public nuisance, and a means for the county to efficiently abate nuisances that are not corrected through the voluntary correction process or that constitute an emergent risk to public safety.

The Board or County Commissioners will also consider several amendments to Title 17 of the Kitsap County Code, also known as the Kitsap County Zoning Ordinance, which will correlate with the new provisions of the Public Nuisance Ordinance relating to junk motor vehicles.

NOTE: THIS MATTER IS FOR DECISION ONLY.

ALL THOSE INTERESTED are welcome to attend.

HOLLY ANDERSON
Clerk of the Board of
Kitsap County Commissioners

NOTE: KITSAP COUNTY DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY. INDIVIDUALS WHO REQUIRE ACCOMMODATIONS, SHOULD CONTACT THE COMMISSIONERS OFFICE AT (360) 337-4428 OF TDD (360) 337-7275 OR I-800-816-2782. (PLEASE PROVIDE TWO WEEKS NOTICE FOR INTERPRETER SERVICES).

Publication Date: October 10, 2001
The Kitsap Newspaper Group

Aug 29, 2001

Dear County Commissioner,

I was the second person to talk at the meeting about the Public Nuisances Ordinance, I ran out of time so I would like to finish here.

I'll write the most important thing first. I think the best way to stop people from leaving junk in their yards would be to make garbage pick-up mandatory county wide. You could also reduce the dump fees. A friend took an old bed and springs to the dump and it cost him \$40.⁰⁰!! Poor people or retired people on a fixed income can hardly pay rent, buy food, and pay medical costs. Garbage is their last concern. It either stays in their yards, is dumped along the side of the road, or burned illegally at night like our neighbors do.

I have some questions about the wording of the ordinance. When you say "screened from the neighbors", do you mean the neighbor's yard or their upstairs bedroom window in a two-story house? We are not allowed to put up a 20 foot tall fence! What could a person do?

You say "junk motor vehicles, vehicle hulks, or any parts thereof". If we have one car and take 4 fenders off and 2 doors off, we now have 7 pieces of a car. Is this considered one disassembled car and we are legal or is it now considered 7 parts thereof and we are illegal?

I think your fee (tax) is totally unfair. If old junk cars are fined because they look trashy, then you also need to fine stored boats, motor homes, campers,

trailers, tractors, construction vehicles (bulldozers etc.) yard equipment (lawn mowers etc.) and piles of junk. If the fee is to pay the salary for a person to check on pollution hazards, then besides old cars, boats, motor homes, construction vehicles, lawn mowers, and any other thing with a motor that runs on gas and oil should also be fined. Don't pick on people with old cars only!

I totally agree with you that something needs to be done about trashy front yards that bring down the value of the neighborhood, but things in a screened-from-view backyard do not hurt anyone else. The King County Ordinance puts no amount on the number of cars a person can have, just that they be screened from view. Why not make Kitsap the same?

In a murder investigation, police must first get a search warrant before going into some one's backyard and looking through their things, but you want to make it okay to trespass and go through people's cars. A murderer would have more rights against search and seizure than some poor home owner who has 1 more car than the 6 allowed.

Pass an ordinance, it is needed. Eyesores must be cleaned up!! But allow any number of cars, with no fee, in a screened-from-view backyard.

Thank you for taking the time to read this. I know you must have read hundreds of them already.

Thank you,
Judith Gluba
3680 S.E. Bear Tree Ln
Port Orchard, WA. 98367

To File 10-22-01 (H)

(Please type if need be)
Thank you

Keep in
Record of
Ord. file

As I am unable to be here today, I have requested this be read to express my vote in favor of passing the Nuisance Ordinance. We have all worked hard to strike a fair balance with four drafts, modification from public input and a lot of investigation into programs presently in effect in other communities.

I feel →

This is a reasonable balance. ~~Transferred with~~
~~Wanda~~

Sincerely

Jan Angel

10-22-01
(or today 10/19)