

TITLE XX.XX

NUISANCE ABATEMENT

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XX.XX.010 – Title

This Chapter shall be known as the “Nuisance Abatement Ordinance”: and may be so cited and pleaded and shall be referred to herein as “this chapter.”

XX.XX.020 – Purpose

Klickitat County is committed to protecting its citizens from the dangers of conditions which constitute a public nuisance, and provides for abatement 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 uncleanness, inadequate light or sanitary facilities, inadequate drainage, or due to other conditions which are inimical to the health and welfare of the residents of Klickitat County, or any violation under the Klickitat County Code (KCC) declared or defined as a public nuisance. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy otherwise available at law. It is not the purpose of this code to create or otherwise establish or

designate any particular class or group of persons who will or should be especially protected or benefited by the items of this code.

XX.XX.030 – Definitions

A. The words and phrases designated in this Section shall be defined for the purposes of this Title as follows:

1. **Abandoned Property:** A property over which the person in charge no longer asserts control due to death, incarceration, or any other reason, and which is either unsecured or subject to occupation by unauthorized individuals.
2. **Abate:** To repair, replace, remove, destroy or otherwise remedy a condition which constitutes a nuisance under this Chapter or under any Chapter of the County Code by such means, in such manner, and to such an extent as the Code Compliance Officer determines is necessary in the interest of the general health, safety, and welfare of the community.
3. **Junk Vehicle:** Any wrecked, inoperative, abandoned or disassembled commercial coach, park trailer, recreational vehicle, boat, automobile or other vehicle, or any parts thereof which are inoperative, immobile, disassembled, or extensively damaged. Evidence of inoperability and damage includes, but is not limited to, a broken window or windshield, missing wheels, flat tires, a nonfunctional motor, transmission or differential, or has an approximate fair market value equal only to the approximate value of the scrap in it.
4. **Nuisance, Violation, or Nuisance Violation:**
 - 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.
 - b. The existence of any of the following conditions:
 - 1) Premises containing visible accumulations of trash, junk, litter, discarded lumber, ashes, bottles, boxes, building materials, and firewood which are not properly stored or neatly piled, cans, concrete crates, empty barrels, dead animals or animal waste, glass, tires, mattresses or bedding, 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 covered receptacles;

- 2) Dangerous structures including, but not limited to, any dangerous, decaying, unkempt, falling or damaged dwelling, or other structure as defined under the International Building Code;
- 3) More than 3 junk vehicles, or parts of such vehicles, or more than one junk vehicle or parts of such vehicles in zoning designations RC, R, R-1, R-2, R-3 and SR as defined in KCC, Title 19, in either case which are not completely enclosed within a building or fence in a lawful manner and not visible from a public thoroughfare or other private real property;
- 4) Mobile/manufactured homes, as defined in KCC, Title 16, which remain on private property more than 180 days and not legally placed pursuant to the provisions of KCC, Title 16;
- 5) Recreational vehicle or park trailer, as defined in KCC, Title 16, which is permanently occupied and not legally placed pursuant to the provisions of KCC, Title 16;
- 6) Attractive nuisances, as defined as any nuisance 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 to minors;
- 7) Obstructions to the public right-of-way including, but not limited to, use of property abutting a public street or sidewalk or use 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 which has not been removed after 24 hours;

- 8) Illegal dumping including, but not limited to, violations of state and local solid waste or litter regulations, and dumping of any type by any person on public or private property not designated as a legal dump site;
 - 9) 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;
 - 10) Any unwholesome or offensive chemical stored in such a manner as to create a substantial risk of injury to public health;
 - 11) Any pit, basin, hole, mine, well, or other excavation which is unguarded and dangerous to life;
 - 12) Any fence or similar structure that is in such disrepair so as to be in danger of collapsing or falling and causing a danger to persons;
 - 13) Any combustible or explosive substance or material stored in such manner as to create a substantial risk of combustion or spread of fire.
- c. Any other nuisance known as common law or in equity jurisprudence or any use, activity or condition that interferes with the safety or comfortable enjoyment of life and property by others.
 - d. Provided however, with all matters related to ground contamination shall be forwarded to the appropriate state or federal agency.

XX.XX.040 – Nuisance Board of Appeals

In order to hear and decide appeals of orders, decisions or determinations made by the Code Compliance Officer relative to the application and interpretations of this Chapter, there shall be and is hereby created the Klickitat County Nuisance Board of Appeals consisting of 3 members who are qualified by experience and training to pass upon matters pertaining to nuisance and who are not employees of the jurisdiction. The Code Compliance Officer shall be an ex officio member, and shall act as secretary to said Board, but shall have no vote upon any matter before the Board. The members of the Board shall be appointed by the Klickitat County Board of County Commissioners and shall hold office at its pleasure. One Board member shall be appointed from each of the 3 County Commissioner districts within Klickitat County and shall reside in and be a real property owner within the Commissioner district which he or she is to represent. The Board shall adopt rules of procedure for conducting its business and shall render all decisions and finding in writing to the appellant, with a duplicate copy to the Code Compliance Officer as applicable. Appeals to the Board shall be processed in accordance with the provisions contained in the Code Compliance Department's written policy. Copies of all rules and regulations adopted by the Board shall be delivered to the Code Compliance Officer, who shall make them freely accessible to the public. The Board shall have no authority relative to interpretations of the administrative provisions of this Chapter nor shall the Board be empowered to waive requirements of this Chapter.

XX.XX.050 – Violations and Enforcement Authority

It shall be unlawful for any person, firm, corporation or other organization whether as owner, lessee, sub-lessee, or occupant to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building, structure, premises, land or portion thereof contrary to or in violation of any of the provisions of this Chapter or its amendments. The Code Compliance Officer, with the assistance of the Sheriff's Office and Prosecutor's Office, is hereby authorized to enforce the provisions of this Chapter.

XX.XX.060 – Abatement of Nuisances and Dangerous Buildings

All portions thereof which are determined after inspection by the Code Compliance Officer to be a nuisance as defined in this Chapter shall be abated. The abatement procedure shall be as specified in XX.XX.130 of this Chapter.

XX.XX.070 – Right of Entry and Warrants

- A. Any entry made to private property for the purpose of inspection for code violations shall be accomplished in strict conformity with Constitutional and statutory constraints on entry. The Code Compliance Officer is authorized to enter upon any property for the purpose of administering this Title provided the Code Compliance Officer shall make entry only if such entry is consistent with the Constitutions and laws of the United States and the State of Washington.

- B. The Code Compliance Officer is authorized to enter upon property or premises to determine whether Klickitat County Codes are being obeyed, and to make any examinations, surveys, and studies as may be necessary in the performance of his or her duties. These may include but are not limited to the taking of photographs, digital images, videotapes, video images, audio recordings, samples, or other physical evidence. All inspections, entries, examinations, studies, and surveys shall be done in a responsible manner. If the property is occupied, the Code Compliance Officer shall ask permission of the occupants before entering the property. If an owner, occupant, or agent refuses permission to enter or inspect, the Code Compliance Officer may seek an administrative or criminal search warrant through the Prosecuting Attorney.
- C. The Prosecuting Attorney may request that a District Court or Superior Court of competent jurisdiction issue an administrative or criminal search warrant. The request shall be supported by an affidavit of a person having knowledge of the facts sworn to before the judge and establishing the grounds for issuing the warrant.
1. If the judge finds that the affidavit given upon proper oath or affirmation shows probable cause to believe a Klickitat County Code has been violated, the judge may issue a warrant for the purpose of conducting inspections or gathering evidence. The warrant shall:
 - a. State the grounds for its issuance and the name of each person whose affidavit has been taken in support of the warrant;
 - b. Be directed to the Code Compliance Officer (or his designee) or a person authorized by the relevant code to execute it;
 - c. Command the person to whom it is directed to inspect the area, premises, or building identified for the purpose specified and the evidence that may be gathered;
 - d. Direct that it be served during normal business hours.
 2. When executed, a copy of the warrant shall be left on the property or the premises searched.
 3. A warrant issued under this Section shall be executed and returned, accompanied by a written inventory of any evidence taken, within 10 calendar days of its date unless, upon a showing of a need for additional time, the court orders otherwise.
 4. If evidence is seized pursuant to a warrant, a copy of the written inventory of any evidence taken shall be provided to the person from whom or from whose premises the evidence was taken, together with a receipt for the evidence taken.

5. The judge who has issued a warrant shall attach thereto a copy of the return (the endorsement made by the person executing the warrant, stating what he/she has done under it, the time and mode of service, etc.) and all papers returnable in connection therewith and file them with the Clerk of the Court in which the inspection was made.

D. Any search warrant obtained under this Title shall be governed by appropriate Washington State statutes and court rules.

XX.XX.080 – Notice and Order of Code Compliance Officer

A. Cause. The Code Compliance Officer shall proceed to investigate the complaint once he/she has received at least 2 or more signed, written complaints in a 12 month period from neighboring individual property owners of separate parcels located in Klickitat County within a 5 mile radius of the nuisance property, a formal written complaint is made by a County Commissioner. Klickitat County will not process verbal complaints, nor complaints that are not written and signed. The complaint shall state with specificity the nuisances the complainant believes exist. If 2 or more signed, written complaints are not received within a 12 month period, no investigation shall be made, and the case shall be closed. A letter notifying the complainant that the matter has been closed shall be mailed to the address the complainant provided.

B. Commencement of Proceedings. Whenever the Code Compliance Officer has inspected or caused to be inspected any property or building and has found and determined that such property or building is a nuisance, the Code Compliance Officer shall request, by resolution of the Board of County Commissioners, authorization to commence proceedings to cause the abatement of such nuisance.

C. Notice and Order. Upon receiving authorization to abate, the Code Compliance Officer shall issue a notice and order directed to the owner of record of the property. The notice and order shall contain:

1. The street address and legal description sufficient for identification of the premises upon which the nuisance is located.
2. A concise description of the nuisance activities that have occurred on the property and whether the property is abandoned.
3. A statement of action required to be taken as determined by the Code Compliance Officer.

4. A statement of the requirements that the nuisance be abated within a certain time, as determined by the Code Compliance Officer.
5. A statement advising that if any required abatement of a nuisance is not voluntarily completed within the time specified, the Code Compliance Officer may proceed to cause the work to be done and charge the cost thereof against the property and/or its owner, resulting in a lien against the property.
6. A notice that in addition to fees and costs, violations are subject to criminal charges.
7. A statement advising (1) that any person having any record, title or legal interest in the property on which the nuisance exists may appeal from the notice and order or any action of the Code Compliance Officer to the Nuisance Board of Appeals, provided that the appeal is made in writing as provided in the Chapter and filed with the Code Compliance Officer within 15 calendar days from the date of service of such notice and order; and (2) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

D. Service and Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the owner of record and posted on the property; or delivered by both certified mail and first class mail to the person in charge of the property with a copy mailed to the owner at the address indicated by the Klickitat County auditor, if different than the person in charge of the property. Service by mail shall be deemed effective upon the third business day following the day of mailing.

E. Proof of Service. The person effecting the service shall make proof of service by a written declaration stating the date and time of service and the manner by which service was made.

XX.XX.090 – Appeal of Notice and Order

Any person aggrieved by the decision of the Code Compliance Officer may request a review of that decision by the Nuisance Board of Appeals. Such request shall be made in writing and filed with the Code Compliance Officer within 15 days from the date of the decision. Failure to appeal in accordance with this provision shall constitute a waiver of the rights to an administrative hearing. The appeal shall identify with specificity the issues raised for review. The hearing shall be before the Board. The Board shall establish a date to hear the appeal which shall be at the next meeting that is more than 10 days after the filing of the appeal unless the Nuisance Board of Appeals sets a different schedule. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed. Written notice and the time and place of the hearing shall be given at least 10 days prior to the date of the hearing. At the hearing, the Board shall consider relevant evidence and legal argument before making a decision. The Board

following a public hearing thereon may affirm, reverse, or modify the decision of the Code Compliance Officer. The decision shall be final, with further appeal to Superior Court.

XX.XX.100 – Compliance

After any order pursuant to this code shall have become final, no person to whom any such order is directed shall fail to neglect or refuse to obey any such order. Any such person who fails to comply with any such order may be guilty of a misdemeanor, and subject to the penalties as set forth in RCW 9A.20.021(3) and subject to the abatement procedures set forth in this Chapter, resulting in fees and costs, and a lien on the property.

XX.XX.110 – Recording of Certificate of Nuisance

If the nuisance or dangerous building is not abated pursuant to the order within the time specified therein and no appeal has been properly and timely filed, the Code Compliance Officer shall file in the office of the County Auditor a certificate describing the property and certifying (1) that the property is a nuisance or that the building is a dangerous building and (2) that the owner has been so notified. If abatement is subsequently completed and the nuisance removed, or in the case of a dangerous building, whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building, the Code Compliance Officer shall file a Certificate of Nuisance Abated with the County Auditor, certifying that the nuisance has been abated or that the building has been demolished or all the required corrections have been made so that the building is no longer dangerous.

XX.XX.120 – Repeat Violation

Any nuisance violation as defined in this chapter, that, after an abatement has been performed, and the property has been brought into compliance, has any other infractions requiring the action of the county, whether in whole or in part, shall be considered as a repeat violation. Each and every repeat violation as defined in this Chapter may constitute a misdemeanor. Each misdemeanor shall be forwarded to the Prosecuting Attorney's Office for further action. Each misdemeanor shall be subject to minimum fines as established herein this Chapter. Repeat offenders will also be subject to "short form abatement" procedures. When an order to correct a violation has been previously issued for the same property to the same individual, the authorized official is not required to issue an order to correct violation and may immediately issue a Notice of Infraction, a Notice of Violation and Abatement, or possible criminal charges by the Prosecuting Attorney's Office. Citations issued shall be double the rates for the first violation. No extensions of time to correct the violation shall be granted for repeat violations.

XX.XX.130 – Abatement

- A. Failure to Commence Work. Whenever the required removal, repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective the Code Compliance Officer may, in addition to any other remedy herein provided, cause the abatement to the extent necessary to correct the conditions which render the property a nuisance or a dangerous building as set forth in the notice and order, or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed; or to cause the nuisance to be removed to render the property in compliance with this code. The abatement shall be ordered by resolution of the Board of County Commissioners, providing authorization to commence proceedings to cause the abatement of such nuisance.
- B. Extension of Time to Perform Work. Upon receipt of a written application from any person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the Code Compliance Officer may, at his/her discretion, grant an extension of time not to exceed an additional 30 days, within which to complete said removal, repair or demolition of the nuisance if the Code Compliance Officer determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life and property. The authority of the Code Compliance Officer to extend time is limited to the physical removal or demolition of the nuisance and will not in any way affect the time to appeal his/her notice and order. After 2 extension, a fee of \$100.00 shall be charged for each additional extension, and shall be made prior to any further extensions being granted. After a total of 3 extensions (totaling 90 days), no further extensions shall be granted without the approval of the Board of County Commissioners, who will be apprised of any progress that has or has not been made, and at that time, it shall be determined if further extensions shall be granted, or if there shall be a move to abate. Every 90 days, if necessary, it shall be revisited with the Board of County Commissioners until the violation has been brought into full compliance.
- C. Billing of Costs. The county is hereby authorized to bill the cost of such cleaning, disposal and administrative costs against the owner of the property, pursuant to KCC, TitleXX, Section XX.XX.150. If unpaid, such cost shall become a lien in favor of Klickitat County and enforceable as other liens against the real property where such nuisance occurred.

XX.XX.140 – Abatement Standards

The following standards shall be followed by the Code Compliance Officer and the Nuisance Board of Appeals if an appeal is filed, in ordering the abatement of any public nuisance:

- A. The nuisance or dangerous building shall be abated to render the property in compliance with this Chapter.
- B. The Code Compliance Officer, through the Prosecuting Attorney, may apply for a warrant allowing entry into and upon premises to do any act provided for in this Chapter. Said application shall be made pursuant to the procedures specified in KCC, TitleXX, Section XX.XX.070(3).
- C. Upon finding that (1) the condition complained of constitutes a violation of this Chapter and (2) the owner(s) or other person(s) having an interest in the property have been provided with notice of proceedings undertaken pursuant to the Chapter and have had an opportunity to be heard in regard to those proceedings the Judge may cause a warrant to be issued allowing the Code Compliance Officer and/or designee, to enter into and upon the described premises in order to take such action as may be reasonably necessary in order to abate the nuisance or dangerous building. Said warrant shall authorize entry only during daylight hours unless otherwise approved by the court, and shall further authorize the Code Compliance Officer and/or designee to leave and return from day to day until such time as necessary to abate the condition is completed. Said warrant shall be executed within the time frame allowed in the warrant.

XX.XX.150 – Fees

- A. Fees and Charges Assessed. Charges for violation of this Chapter may, but are not to be limited to the actual cost of physical removal or abatement, the administrative fees, costs associated with site security and costs for county personnel or others to enforce KCC, Title XX, Section XX.XX.130(3). The administrative fee shall be equal to 10% of the actual cost of physical removal or abatement of the nuisance or dangerous building to render the property in compliance whether contractual or performed by county personnel. The actual cost can include, but is not limited to, the physical removal or abatement for which the costs of certified mail, postage, serving and posting fees, title and reporting fees, cost of record of appeals hearings, subpoena, penalties assessed under KCC, Title XX, Section XX.XX.110, inspection of premises by Appeals Board, costs associated with site security, civil filing fees, charge and costs associated for county personnel to enforce compliance. The court may order restitution be paid to a damaged party by the person found to have committed the infraction, such as, but not limited to, a tenant and property owner. Any person who, through an act of commission or omission procures, aids or abets in the violation(s) shall be considered to have committed a violation for the purposes of the civil penalty.
- B. Accounting. The Code Compliance Officer shall keep an itemized account of the expense incurred by this jurisdiction in the proceedings for removal, repair or abatement of any property done pursuant to the provisions of this code. Upon completion of the

work or removal, repair or abatement, said Code Compliance Officer shall prepare and file with the clerk of the Board of County Commissioners a report specifying the work done, the itemized and total charge for the work, a description of the real property upon which the nuisance or dangerous building is or was located and the names and addresses of the persons entitled to notice pursuant to KCC, Title XX, Section XX.XX.080. After review the Board of County Commissioners may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the parcel(s). If a charge is made a personal obligation, which shall be collected by the Code Compliance Department. If the charges are not paid within 90 days, a copy of the order shall be provided to the Prosecuting Attorney who may collect the amounts on behalf of the county using all appropriate legal remedies.

- C. Liability. The costs of correcting a nuisance under this Chapter, or under any Chapter of the County Code, 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. All costs or correction assessed by the county create a joint and several personal obligation in all persons subject to a warrant of abatement or of a contempt order for violation of a permanent injunction against such nuisance.

- D. Payment Due. Costs of corrections shall become due and payable to the County Treasurer within 15 calendar days of the date of mailing the billing for abatement. All such costs and expenses ordered shall constitute a lien against the affected property, as set forth in KCC, Title XX, Section XX.XX.150(F), after 15 calendar days, absent a payment agreement entered into with the Department. Costs shall incur interest at the rate of 12% per annum, subject to adjustment based on RCW 19.52, on the costs of abatement incurred by the county.

- E. Interference. Any person who knowingly hinders, delays or obstructs any county employee acting on direction of the Director and in furtherance of a court order in the discharge of the county employee's official powers or duties in abating a nuisance or correction a violation of a permanent injunction under this Chapter or under any Chapter of the county code, shall be guilty of a misdemeanor punishable by imprisonment not exceeding 90 days and/or a fine not exceeding \$1,000.00. In addition, any such person knowingly hinders, delays or obstructs any county employee in furtherance of said duties shall be liable for incidental expenses to the county arising from such, including but not limited to personnel costs, both direct and indirect and including attorney's fees, costs incurred in documenting the violation, all actual expenses and costs of the county in remediation of such hindrance, and delay or obstruction associated with the abatement or injunctive action. All such costs and expenses shall constitute a lien against the real property of said person, as set forth in KCC, Title XX, Section XXXX.150(F).

- F. Lien – Authorized. Once ordered by the Board of County Commissioners, the county shall have a lien for any monetary penalty imposed, the cost of any abatement

proceedings under this Chapter or under any Chapter of the County Code, 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.

1. The Director shall cause a claim for lien to be filed for record within 90 days from the later of the date that the monetary penalty is due, the work is completed, or the nuisance abated or corrected.
2. 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.
3. Any such claim of lien shall be verified by the Director, and may be amended to reflect changed conditions.

XX.XX.160 – Liability

The employee(s) charged with the enforcement of this Chapter acting in good faith and without malice in the discharge of the duties required by this Chapter or other pertinent law or ordinance shall not thereby be rendered personally or officially liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the employee(s) because of such act or omission performed by employee(s) in the enforcement of any provision of this Chapter or other pertinent laws or ordinances implemented through the enforcement of this Chapter or enforced by the code enforcement agency shall be defended by this jurisdiction until a final termination of such proceedings, and any judgement and/or legal fees resulting therefrom shall be assumed by this jurisdiction, whether or not the employee(s) is sued in their individual capacity or their official capacity.

