

City of Cheney  
609 2<sup>nd</sup> Street  
Cheney, WA 99004

**CITY OF CHENEY,  
ORDINANCE NO U-95**

**AN ORDINANCE AMENDING TITLE 19 OF THE CHENEY MUNICIPAL  
CODE, CREATING A NEW CHAPTER 19.18 OF THE CHENEY  
MUNICIPAL CODE RELATING TO NUISANCES, ABATEMENT  
THEREOF, THE SETTING OF PENALTIES, AND OTHER MATTERS  
PROPERLY RELATED THERETO.**

**WHEREAS**, pursuant to RCW 35A.11.020, the City of Cheney City Council is vested with the authority to adopt and enforce ordinances of all kinds relating to the municipal affairs of the City;

**WHEREAS**, the authority to protect the public health, safety, and general welfare of the residents of the City is vested with the City Council; and

**WHEREAS**, the City adopted Resolution D-520 as its policy regarding nuisance abatement within the City limits; and

**WHEREAS**, the City Council desires to amend its nuisance ordinances for the protection of the public health, safety and general welfare;

NOW THEREFORE the City Council of the City of Cheney, Washington, do ordain as follows:

Section 1. The definition of "Junk vehicles" in Section 19.16.030 of the Cheney Municipal is hereby deleted:

Section 2. Section 19.16.150(a)(2) of the Cheney Municipal Code is hereby amended to read as follows:

(2) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building or upon an unoccupied lot. This includes any:

(A) Lumber and wood piles arranged or stacked in such a manner that collapse may occur under any external force,

(B) Outside area of a dwelling unit or vacant lot located in proximity to another dwelling unit or vacant lot that is not kept reasonably neat and clean and free of uncut grass, grass clippings, cut brush or cut weeds which may create an insect or rodent harborage or is allowed to become a fire hazard under the International Fire Code as determined by the fire chief or his designee. This includes any unplatted, residential, industrial, agricultural, semi-rural zoned areas, or ground that has never been platted.

Section 3. A new Chapter to the Cheney Municipal Code 19.18 entitled NUISANCES is hereby created to read as follows:

19.18.010 Intent of Chapter. The intent of the City Council in enacting this chapter is to provide a fair and efficient method to cause owner(s) and occupant(s) of property or their agent to remove junk, junk cars and nuisances from property within the City.

19.18.020 Definitions. For the purpose of this chapter, certain words used herein are defined as follows:

“Abate” means to repair, remove, destroy or to otherwise remedy an unlawful condition, by such means and in such manner as is necessary in the interests of the general health, safety and welfare of the community.

“Enforcement Officer” shall include the Building Official, Fire Chief, Police Chief, Police Officer, Director of Community Development, Director of Public Works, Code Enforcement Officer, Deputy Code Enforcement Officer, and the City Administrator.

"Garbage" means all waste and residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food and food products including, but not limited to, discarded food wrappings and containers, paper, plastic and metal products used or intended for use in connection with the storage, sale, preparation or "Clean-up" relating to food items; egg shells; used coffee grounds; used tea bags; meat trimmings; entrails of animals, poultry or fish; offal; medical wastes including bandages, syringes, medicines, plaster or other casts; and decomposed putrid material; whether such items are alone or in combination with other materials.

“Junk” means all articles such as appliances and furniture, parts thereof, boxes, cardboard, paper, glass, old wood, tires on or off rims, wheels, mattresses, bed springs or other bedding, growing or severed hay, grass, straw or weeds, litter or combustible or flammable waste or rubbish, building materials and similar articles and materials, crates, pallets, packing cases, scrap iron, wire, tin, ashes, bric-a-brac, broken glass, broken plaster and all such trash or abandoned materials or anything whatsoever in which flies, mosquitoes, vermin, or rats may breed (unless they are kept in receptacles

as required by ordinance). This also includes all trash and debris other than which has been collected to await arrival of the City's garbage collector. As used in this Chapter, "Junk" refers only to materials left outside of any building and does not apply to material stored inside a lawfully constructed building so long as such building is wholly enclosed except for doors for ingress and egress.

"Junk Vehicle" means a 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 broken window or missing windshield or missing wheels, tires, motor, or transmission;
- (c) Is apparently inoperable; or
- (d) Has an approximate fair market value equal only to the approximate value of the scrap value.

"Owner" means any person owning property, as shown on the real property records of Spokane County or on the last assessment roll for taxes, and shall also mean any lessee, tenant, occupant or other person having control or possession of the property.

"Person" means an individual, corporation, joint venture, partnership, estate, trust, limited liability company, association, government, governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

"Nuisance" consists in doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others; or
2. Offends decency; or
3. Is offensive to the senses; or
4. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any stream, public park, parkway square, street or highway in the City; or
5. In any way renders other persons insecure in life and use of property; or
6. Obstructs the free use of property so as to essentially interfere with comfortable enjoyment of life and property;

"Premises" means any building, lot, parcel, real estate or land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

“Vehicle” means a motorized or non-motorized vehicle or device for carrying passengers, goods, or equipment, including but not limited to, automobiles, trucks, motorcycles, bicycles, boats, tractors, campers, trailers, or devices of a similar nature or and components of such devices.

Section 19.18.030 Unlawful to Store Junk and Junk Vehicles. It is unlawful and a violation of this chapter for any Person or Owner of any premises in the City or the owner’s agent or occupant of any Premises to store, keep or accumulate Junk or Junk vehicles on such property, or allow anyone else to store, keep or accumulate junk or junk vehicles on such property.

Section 19.18.040 Illegal Dumping. It is unlawful and a violation of this chapter for any person, company or organization to dump any material within the City limits, except at licensed solid waste disposal facilities. Whenever waste material dumped in violation of this chapter contains three or more items bearing the name of one individual, there shall be a permissible inference that the individual whose name appears on such items committed the unlawful act of dumping and littering. The only exception is dirt or fill and then can only be dumped at a location specified on an excavation and grading permit issued by the City of Cheney Building Department or associated with a Public Works project.

Section 19.18.050 Nuisances Designated. The following specific acts, omissions, places, conditions and things, including but not limited to these, are declared to be Nuisances:

- A. The erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon and private lot, building, structure or premises, or upon any street, avenue, alley, parkway, or other public or private place in the City, of any one or more of the following unsanitary; rodent, vermin, or other wild animal harboring or attracting; mosquito, insect attracting; or, fly producing, disease-causing conditions; places or things, that is to say:
  1. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish, or fowl; or
  2. Privies, vaults, cesspools, sumps, pit, or like places which are not securely protected from flies, or rats etc. which are foul or malodorous; or
  3. Filthy, littered or trash covered cellars, house yards, barnyards, stable-yards, factory-yards, manufacturing-yards, vacant areas, in rear of stores, vacant lots, houses, buildings or premises; or
  4. Animal manure in any quantity which is not secured, protected from flies and the elements, or is kept or handled in violation of any ordinance of the City; or

5. Liquid household waste, human excreta, garbage, butcher's trimming and offal, parts of fish or any waste vegetable or animal matter in any quantity: provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner provided by the health officer, or the dumping of nonputrefying waste in a place and manner approved by the health officer.

- B. The erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon and private lot, building, structure or premises, or upon any street, avenue, alley, parkway, drive or any private driveway or other public or private place in the City, of any one or more of the following unsanitary; rodent, vermin, or other wild animal harboring or attracting; mosquito, insect attracting; or, fly producing, disease-causing conditions; places or things, that is to say:
1. Tin cans, bottles, cans, ashes, small pieces of scrap iron, wire and metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all such trash and abandoned materials unless they are kept in receptacles as required by ordinance;
  2. Trash, litter, rags, accumulations of empty barrels, boxes, cardboard, crates, packing cases, pallets, mattresses, bed springs, bedding, excelsior, packing straw, hay or other packing material, lumber, scrap iron, tin, and other metal or anything whatsoever in which flies, mosquitoes, rats or other rodents may breed or multiply or which may be a fire danger, or which constitutes a hazardous attraction to children;
- C. Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure, or any building or structure commenced and left unfinished for a period of more than 365 days;
- D. The keeping or storing of bed mattresses, bed springs or other bedding, toilets, bathtubs, sinks, water heaters, cloths washers, cloth driers, ovens/ranges or other household appliances, and damaged or stored or discarded furniture and other household goods or items including indoor furniture left outdoors, including carports and non-enclosed porches and decks, in a residential zone or other zone within the City where such items are inconsistent with permitted uses authorized within the zone;
- E. All places used or maintained as junkyards, or the dumping grounds, or for the wrecking or dismantling of vehicles, or machinery of any kind, or for the storing or leaving of any worn out, wrecked or abandoned vehicles or machinery of any kind, or of any of the parts, tires and wheels whether on or off rims, thereof, or for the leaving or storing of any machinery or equipment

- used by contractors or builders or by others and which are not outlawed by zoning ordinances of the City;
- F. Any underground or abandoned pit, excavation, shaft, well or other uncovered hole into which a person could fall;
  - G. The dropping or placing on any street, alley, drive or any private driveway, park or thoroughfare of any tree trimmings leaves, grass, garden debris, dirt, rock, crushed rock, sand, gravel, bricks, ashes or any foreign substance of any kind whatsoever;
  - H. Any refrigerator, freezer, or other insulated container within which a child could suffocate pursuant to Chapter 9.03 RCW;
  - I. Any sign, poster or other advertising matter of any nature placed upon any telegraph, telephone, electrical distribution pole or other poles, trees, sidewalks, streets, signs, or other traffic control devices or other structures or places within the streets, alleys or other public places or right-of-ways which are not allowed by ordinances of the City;
  - J. Any building, house, room or other structure or vehicle, maintained or used for the purpose of lewdness, assignation, or prostitution;
  - K. All houses, rooms, booths or other structures used as a place of resort where disorderly persons are allowed to congregate, or which drunkenness is carried on or permitted;
  - L. Toxic, radioactive, caustic, flammable, explosive or other dangerous or hazardous substances, except for as housed where applicable and stored in accordance with health, environmental, fire, refuse and zoning laws;
  - M. Throwing, emptying or depositing, or allowing to be thrown, emptied, or deposited into any privately or publicly owned refuse can, dumpster, or other receptacle, any hazardous or dangerous substances.
  - N. Maintaining or allowing to grow trees, plants, shrubs, or vegetation, or parts thereof, which overhang any sidewalk or street or which are growing thereon in such a manner as to obstruct or impair the free and full use of the sidewalk or street by the public, or block or impair the reasonable public view of traffic, street, or informational signs;
  - O. The growing, permitting, or allowing the growth of any grass, noxious weeds as established by Chapter 17.10 RCW, or uncultivated bushes and/or vines to exceed ten inches in height, or any rank vegetable growth which exudes unpleasant or noxious odors, in areas of the city other than those which have been, or shall be designated as agricultural areas pursuant to the zoning

ordinance of the City. When total removal of growth from a piece of property is impractical due to size, or to environmental factors, approved fuel breaks may be established between the land and the endangered property. The width of the fuel break shall be determined by the height, type, and the amount of growth, wind conditions, geographical conditions, and type of exposures threatened, as determined by the Fire Chief or Fire Marshal;

- P. Maintaining or keeping a junk vehicle or parts thereof in the City, except in an authorized wrecking yard as established by the City of Cheney Zoning Code;
- Q. Every Person owning, occupying or controlling any premises bordering any street, alley or public place in the City limits of Cheney and allowing or permitting the growth of any grass, weeds or uncultivated bushes and/or vines to exceed ten inches in height, or any rank vegetable growth which exudes unpleasant or noxious odors between the property line of such property and the street.
- R. All partially burned structures that exist within thirty (30) days of the date of the event burning the structure and no evidence of clearing of refuse, debris, charred lumber, or rehabilitation occurs. For structures that are destroyed in their entirety and incapable of rehabilitation, all debris, refuse, material or charred lumber must be removed within sixty (60) days of the date of the event burning the structure.

Section 19.18.060 Prohibited Conduct.

- A. It is unlawful for any Owner or Person to permit, maintain, suffer, carry on or allow, upon any Premises located within City limits, any of the acts or things declared by this Chapter to be a Nuisance.
- B. It is unlawful for any Person, firm or corporation, by itself or by its agents or employees, or as the agent or employee of another person, firm or corporation, to do or permit to be done upon any Premises over which it has control, or to maintain, carry on, suffer or allow, at any place or places in the preceding sections mentioned, any of the acts or things herein declared to be Nuisances, or to do or cause, or permit or suffer to be done, or maintain any act or thing which shall be detrimental or injurious to public health or offensive to the senses or contrary to public decency or morality.

Section 19.18.070 Voluntary Correction Agreement

- A. Applicability. This section applies whenever the Enforcement Officer determines that a violation of this Chapter has occurred or is occurring.

B. General. The Enforcement Officer may pursue, via reasonable means, a voluntary correction by contacting the person responsible for the violation where possible, explaining the violation and requesting correction.

C. Issuance of Voluntary Correction Agreement. A voluntary correction agreement may be entered into between the person responsible for the violation and the City, acting through the Enforcement Officer.

1. Content. The voluntary correction agreement is a contract between the City and the Owner and/or Person responsible for the violation under which such person agrees to abate the 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 violation; and

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

c. A description of the violation and a reference to the provision(s) of the city ordinance or regulation which has been violated; and

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

e. An agreement by the person responsible for the violation that the City may abate the violation and recover its costs and expenses and a monetary penalty pursuant to this chapter from the person responsible for the violation if terms of the voluntary correction agreement are not met; and

f. An agreement that by entering into the voluntary correction agreement the person responsible for the violation waives the right to an administrative appeal of the violation and/or the required corrective action.

2. Right to a Hearing Waived. The person responsible for the violation waives the right to an administrative appeal of the violation and the required corrective action upon entering into a voluntary correction agreement.

3. Extension – Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the Enforcement Officer if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original conditions unattainable.

4. Abatement by the City. The City may abate the violation in accordance with Section 19.18.100 if the terms of the voluntary correction agreement are not met.

5. Collection of Costs. If the terms of the voluntary correction agreement are not met the person responsible for the violation and the Owner shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with subsection 19.18.090 of this chapter, plus all costs and expenses of abatement, as set forth in section 19.18.100(D) of this chapter.

Section 19.18.080 Notice to Abate - Order

A. Upon the discovery of a nuisance, the Enforcement Officer may order the Owner or other Person creating, keeping, maintaining or permitting the same to abate it, and in default thereof to undertake the abatement on behalf of the City. At least seven (7) days before the City commences abatement, except in cases of immediate necessity and injurious to the public health, safety, and general welfare, the Enforcement Officer shall notify the Person creating, keeping, maintaining or permitting the nuisance, the Owner and any other person in possession of the property, if known, of the City's intentions. The order shall describe with particularity the nature of the violation, the sections of this Code or other law which are being violated and specifying a reasonable time within which the abatement must be accomplished.

1. Within seven (7) days after the posting and mailing of notice as provided in subsection (B) of this section, the Person occupying the Premises and/or the Owner shall remove the nuisance unless a protest has been filed as provided in subsection D of this section.

B. Content of Notice to Abate.

1. The address, when available, or location of the violation;

2. A legal description of the real property or the Spokane County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators;

3. A statement that the City has found the named Person(s) to have committed a violation and a brief description of the violation(s) found;

5. A statement of the specific provisions of the ordinance, resolution, regulation, public rule, permit condition, notice and order provision, or stop work order that was or is being violated;

6. A statement that a civil penalty or criminal penalty may be assessed, including the dollar amount of the civil penalties per separate violation,

and that any assessed civil penalties must be paid within 20 days of service of the notice and order or the denomination of the criminal penalty;

7. A statement advising that any costs of enforcement incurred by the City shall also be assessed against the person to whom the notice and order is directed;

8. A statement that payment of the civil penalties assessed under this chapter does not relieve a person found to be responsible for a code violation of his or her duty to correct the violation and/or to pay any and all civil penalties or other cost assessments issued pursuant to this chapter;

9. A statement of the corrective or abatement action required to be taken and that all required permits to perform the corrective action must be obtained from the proper issuing agency;

10. A statement advising that, if any required work is not commenced or completed within the time specified by the notice and order, the City may proceed to seek a judicial abatement order from Spokane County Superior Court to abate the violation;

11. A statement advising that, if any assessed penalty, fee or cost is not paid on or before the due date, the City may charge the unpaid amount as a lien against the property where the code violation occurred if owned by a person responsible for a violation, and as a joint and several personal obligation of all persons responsible for a code violation;

12. A statement advising that any person named in the notice and order, or having any record or equitable title in the property against which the notice and order is recorded may appeal from the notice and order to the Board of Adjustment within 20 days of the date of service of the notice and order;

13. A statement advising that a failure to correct the violations cited in the notice and order could lead to the denial of subsequent Cheney permit applications on the subject property;

14. A statement advising that a failure to appeal the notice and order within the applicable time limits renders the notice and order a final determination that the conditions described in the notice and order existed and constituted a violation, and that the named party is liable as a person responsible for a violation;

15. A statement advising the person responsible for a code violation of his/her duty to notify the City of any actions taken to achieve compliance with the notice and order; and

16. A statement advising that a willful and knowing violation may be referred to the office of the prosecuting attorney for prosecution.

- C. Service of Abatement Order. The Order shall be served upon the person or person to whom it is directed, and by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to the Owner of the Property as listed on the tax records of Spokane County. Proof of personal service shall be made at the time of service by written declaration by the person effecting service, declaring time, date and manner by which service was made. Service by mail shall be deemed complete three days after mailing of the Order.

At the time that the notice is served upon the Person in possession of the Property and the Owner, the Code Enforcement Officer shall execute a Certificate of Service stating the date and place of mailing and service.

- D. Appeal of Notice to Abate. Any person in receipt of a Notice to Abate must appeal the decision to the Board of Adjustment for the City within twenty (20) days of the issuance of the Notice to Abate. Any appeal of the Notice to Abate must be mailed and received by the City Clerk prior to the appeal deadline. The appeal hearing will be scheduled at the Board of Adjustment's next regularly scheduled meeting.
- E. The City may seek a judicial abatement order from the Spokane County Superior Court as deemed necessary to abate a condition which continues to be a violation of this chapter when other methods of remedial action have failed to produce compliance.

Section 19.18.090 Abatement - Failure – Penalty.

- A. Criminal Penalties. A violation of any of the provisions of this chapter may constitute a gross misdemeanor. It shall be a separate offense for each and every day or portion thereof during which any violation of any provision of this chapter is committed. Any person who violates any provision of this chapter shall be subject, upon conviction in court, to a fine not to exceed five thousand dollars (\$5,000.00) and/or imprisonment in jail for a term not to exceed one year.
- B. Civil Penalties. Any person who violates any provision of this chapter or fails to comply with a Notice to Abate issued under this chapter may be subject to a civil penalty. Each day the violation exists shall constitute a new violation. For each violation, the penalty shall be \$250.00. The penalty shall be \$500.00 for the second separate violation and \$1,000 for the third and subsequent separate

violations of the same chapter provision or regulation within any five-year period. Total civil penalty shall not exceed \$5,000.

Section 19.18.100 Abatement by the City.

A. The City may abate a condition which constitutes a Nuisance under this chapter when:

1. Voluntary correction could not be obtained, or
2. A Notice to Abate has been issued pursuant to Section 19.18.080 of this chapter, and the required compliance has not been completed by the date specified, or
3. The condition is subject to summary abatement as provided for hereinafter.

B. 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 City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the property owner of record as soon as reasonably possible, and may be given either before or after the abatement. No right of action shall lie against the City or agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats. A hearing may be held or offered after the abatement, after notice, and if the hearing officer finds that a hazard existed and that its immediate correction was necessary, the amount of the cost shall be billed and if not paid shall be filed as a lien against the property.

C. Authorized Action by the City. Using any lawful means, the City or its authorized agents may enter upon the subject property and may take preventative measures, remove or correct the condition that is subject to abatement. The City may seek such judicial process as it deems necessary to effect taking preventative measures, or cause the removal or correction of such conditions. The City may use its own resources to abate a violation.

D. Recovery of Costs and Expenses. The costs of abating a condition that constitutes a nuisance under this chapter, including all incidental expenses, shall be billed by certified or registered mail, with a five-day return receipt requested, to the property owner of record at their last known address and shall become due and payable to the City within fifteen calendar days of the date of mailing the billing for abatement. The term "incidental expensed" 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 City in preparing notices, specifications and contracts associated with the abatement, and in accomplishing and/or contraction and

inspecting the work; and the costs of any required printing or mailing. The Person in possession of the Property and the Owner shall be jointly and severally liable for all such costs and expenses incurred by the City in abating the nuisance and or other conditions on the affected Property. All such costs and expenses shall constitute a lien against the affected Property.

E. Interference. Any person who knowingly hinders delays or obstructs any City employee or other persons acting on direction of the Enforcement Officer in the discharge of his or her official powers or duties in abating a nuisance under this chapter shall be guilty of a misdemeanor.

F. Lien – Authorized. The City shall have a lien for costs of any abatement proceedings under this chapter or for any of the abatement work that was performed. The lien shall run with the land and shall be of equal rank with state, county and municipal taxes.

1. The Enforcement Officer shall cause a claim for lien to be filed for record no sooner than fifteen calendar days of the date of mailing the billing for abatement.

2. The claim of lien shall contain sufficient information regarding the Notice to Abate, as determined by the Enforcement Officer, a description of the property to be charged with the lien and the owner or record, and the total amount of the lien.

3. Any such claim of lien shall be verified by the Enforcement Officer, and may be amended to reflect changed conditions.

Section 19.18.110 Closing Unoccupied Buildings Required. It is unlawful for any every agent or owner or person in control of any unoccupied building in the City of Cheney to fail to keep the unoccupied building securely closed at all times against persons who may enter and commit a nuisance therein.

Section 19.18.120 Entering Unoccupied Buildings. It is unlawful for any person to enter any unoccupied building and commit a nuisance therein.

Section 19.18.130 Public Nuisance Declared – Junk Vehicles. All Junk Vehicles certified as such by an Enforcement Officer as defined under 19.18.020 and found on public or private property are declared to constitute a public nuisance subject to removal, impoundment and disposal. It is unlawful for any individual, firm, entity or corporation to allow, cause to allow or place a Junk Vehicle on any Premises.

Section 19.18.140 Junk Vehicle Storage – Exceptions. The Junk Vehicle is completely enclosed within a building or screened from public or private view from ground floor level with sight-obscuring fencing. Junk Vehicles not stored in an

enclosed building must be stored in the side or rear yards behind a sight-obscuring fence.

Section 19.18.150 Junk Vehicle Abatement Action.

A. Upon determination that a vehicle is a junk vehicle on private property, the Enforcement Officer shall issue an abatement order to the property owner and to the last registered and legal owner of the vehicle, unless the vehicle is in such condition that identification numbers or license numbers of the vehicle are not available to determine ownership. The abatement order shall order the removal of the vehicle or parts thereof within thirty (30) days of the issuance thereof. Such abatement order shall identify the property by street address and legal description, if possible, and shall describe the vehicle or parts which violate this chapter. The abatement order shall be mailed by regular mail and certified mail with return receipt requested to the property owner shown by the records of the Spokane County Assessor and to the last registered owner of record of the vehicle, if determinable. The abatement order is considered served three (3) days after mailing.

B. Upon failure of the property owner or last registered owner of record to remove said vehicle within thirty (30) days, the Enforcement Officer shall dispose of the vehicle or parts, after notice to the Washington State Patrol and Department of Licensing that the vehicle has been wrecked. The City may use any lawful means to cause the vehicle to be removed from the private property and disposed of to a licensed motor vehicle wrecker or hulk hauler or scrap processor.

C. The costs of removal and disposal shall be assessed against the last registered owner if the identity of the owner can be determined, or against the property owner of record of the property on which the vehicle is stored, or both. If both the owner of the vehicle and the property owner are assessed the costs of removal, then liability for the costs shall be their joint and separate obligation. The costs of administration and of removal and disposal of the vehicle may be recovered by any legal means.

Section 19.18.160 Junk Vehicle Hearing.

A. The property owner or registered owner of the vehicle shall be granted a hearing by the Municipal Court Judge if so requested within fourteen (14) calendar days from the date of service of the abatement order, filed with the Court Clerk on the question of abatement and removal of the vehicle or parts thereof as a public nuisance. Upon receipt of written request for an appeal hearing, the Court Clerk shall notify the appellant, in writing, of the time, date and the place of the hearing. The notice shall be mailed by certified mail.

B. 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 land with

his/her reasons for denial. If it is determined that the vehicle was placed on the land without the consent of the land owner and that he/she has not subsequently acquiesced in its presence, then the cost of administration or removal of the vehicle shall not be assessed against or otherwise collected from the property owner.

Section 19.18.170 Cumulative Quality of Chapter. The provisions of the chapter shall be cumulative and in addition to the provisions of the now existing ordinances of the City of Cheney, and shall not have the effect of repealing any ordinance of the City of Cheney now in effect on the same subject matter.

Section 19.18.180 Conflicts. In the event of a conflict between this chapter and any other provisions of the Cheney Municipal Code, this chapter shall control.

Section 19.18.190 Separation of Offenses. Each day or part of a days continuance of anything prohibited by this chapter shall be a separate offense hereunder.

Section 19.18.200 Severability. If any section or provision of the chapter shall be held void or unconstitutional, all other sections and all other provisions of the chapter which are not so held to be void or unconstitutional shall continue in full force and effect.

Section 4. Section 1.28.060 of the Cheney Municipal Code is hereby amended to read as follows:

1.28.060 Definitions. The following definitions shall be applicable to the provisions of Chapter 1.28.

The term "Building Official" shall include that person designated by the Mayor of the City of Cheney as the City's Building Official.

The term "Enforcement Officer" shall include the Director of Community Development, Director of Public Works, Fire Chief, Building Official, Code Enforcement Officer, Deputy Code Enforcement Officer, and the City Administrator or any other person designated such authority by the Mayor.

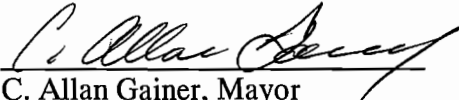
The term "Person" shall include an individual, corporation, joint venture, partnership, estate, trust, limited liability company, association, government, governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

Section 5. This ordinance shall be in full force and effect 30 days after passage, approval and publication.

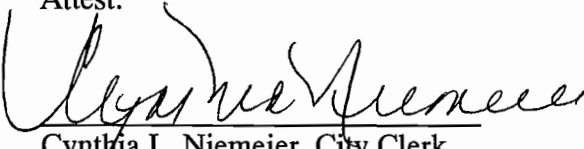
Introduced this 10<sup>th</sup> day of February, 2009.

Passed by the City Council this 10<sup>th</sup> day of March, 2009.

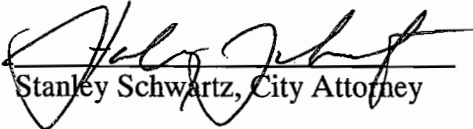
Approved by the Mayor this 10<sup>th</sup> day of March, 2009.

  
C. Allan Gainer, Mayor

Attest:

  
Cynthia L. Niemeier, City Clerk

Approved As To Form:

  
Stanley Schwartz, City Attorney