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MEMORANDUM OF UNDERSTANDING

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THE BOARD OF CLALLAM COUNTY COMMISSIONERS, THE CLALLAM COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT, THE CLALLAM COUNTY SHERIFF’S OFFICE, THE CLALLAM COUNTY HEALTH AND HUMAN SERVICES DEPARTMENT, THE CLALLAM COUNTY HEALTH OFFICER, AND THE CLALLAM COUNTY PROSECUTING ATTORNEYS’ OFFICE REGARDING THE CLALLAM COUNTY CODE ENFORCEMENT PROGRAM

This memorandum of understanding (“MOU”) is entered into this \_\_\_ day of \_\_\_\_\_, 2023, by and between the Board of Clallam County Commissioners (BOCC), Clallam County Department of Community Development (“DCD”), the Clallam County Sheriff’s Office (“CCSO”), the Environmental Health Division of the Clallam County Health and Human Services Department (“EH”), the Clallam County Health Officer (Health Officer) and the Clallam County Prosecuting Attorney’s Office (“PAO”) (hereinafter, referred to as the “Parties”).

WHEREAS the Parties share a common goal to promote, protect and improve the health, safety and welfare of Clallam County citizens and visitors to our community,

WHEREAS each of the Parties participate either directly or indirectly in the administration of code enforcement within Clallam County and wish to provide in an MOU a framework of high-level mutual goals, planned actions and contingencies to increase the effectiveness of county code enforcement, improve oversight and enhance interagency coordination and cooperation.

NOW, THEREFORE, the Parties enter into this MOU for the following purposes and agree as follows:

I. PURPOSE

The purpose of this MOU is to foster a formal collaborative relationship between the various Clallam County Departments/Offices that are directly or indirectly involved in the enforcement of the Ordinances of Clallam County and establish an agreed written coordinated framework for ensuring that the code compliance program will continue in an effective, predictable manner recognizing that changes in departmental or office leadership, and their related priorities, interests, or levels of support are a normal occurrence within county government.

II. REGULATORY CONSIDERATIONS

- a. **Primary Authority.** The Parties recognize that the responsibilities and authorities for administration of the code enforcement program are established in state law and the County Code.
- i. In accordance with Title 20, CCC, code enforcement shall primarily be the duty and responsibility of the Director of DCD. Likewise, the Junk Vehicle Ordinance (Section 19.60, CCC) sets forth the Director of DCD as the lead program administrator. Both ordinances define “Director” and “Department” as the Director of the DCD and DCD, respectively.
  - ii. Section 4.25 of the Clallam County Home Rule Charter establishes that enforcement authority “...with respect to the environment, natural resources, and land and shoreline development, including, but not limited to, zoning, land divisions, environmental policy, building and fire codes... watershed planning, and floodplains,” resides with the Director of the Department of Community Development
- b. **Other Authorities.** The Parties further recognize that the County Code and state law establish other authorities for the enforcement of the County Code.
- i. In addition to the designation of DCD as the primary authority, Sections 20.08.010(4) and (5), authorize the BOCC to designate by ordinance any other department or person as lead for the enforcement of Title 20, CCC.
  - ii. Section 20.08.020, CCC, establishes that civil code violations are declared as public nuisances, that such violations are also misdemeanors, and specifically authorizes the PAO to bring legal actions necessary to provide enforcement.
  - iii. In addition to designating DCD as the primary authority, the Junk Vehicle Ordinance also authorizes “...any law enforcement officer, and the Clallam County Prosecuting Attorney...to enforce this chapter (CCC 19.60.060(1)).”
  - iv. RCW 36.28.010 establishes that the Clallam County Sheriff is “the chief executive officer and conservator of the peace of the county.” Under RCW 36.28.010 and .020, the Sheriff and CCSO deputies shall “...execute the process and orders of the courts of justice or judicial officers, when delivered for that purpose, according to law” and “execute all warrants delivered for that purpose by other public officers,

according to the provisions of particular statutes.” Additionally, the CCSO has the common law and constitutional power to enforce county law, including infractions determined to be public nuisances as set forth in Section 20.08.020, CCC.

- v. Section 2.30.10, Clallam County Home Rule Charter vests the Board of County Commissioners (BOCC) with the legislative powers of the County. Within that power is the authority to establish or abolish the duties and authorities of departments by ordinance, except those departments directed by elected officials whose duties are established by state law. The Charter further vests the BOCC with authority to execute and enforce laws and ordinances (Section 2.30.20). These powers are further augmented by RCW 36.32.120(7), which grants the BOCC with the authority to make and enforce regulations by ordinance or resolution.
- c. Supporting Roles. The Parties further recognize that each department, by virtue of the corresponding expertise and competencies required for their core functions, are best suited to provide specific contributions and support to the code enforcement effort.
- i. The DCD houses subject-matter experts on land use, shoreline, building, critical areas and resource lands regulations. The department is also the primary liaison with the Hearing Examiner.
  - ii. EH is responsible for the administration of all regulations concerning health (Charter, Section 4.25). While the Charter creates a clear distinction between the roles of the DCD and EH, field personnel from both departments can, and do, play a mutually beneficial role in alerting the other to the presence of potential issues involving the other’s code enforcement role.
  - iii. The CCSO is essential in providing safe escort for code enforcement officers when the subjects of an investigation have a potential for dangerous or violent encounters. The CCSO is also the designated authority for the administration of criminal warrants, and if necessary, arrests under a charge of misdemeanor.
  - iv. The PAO is essential in providing further prosecutor services should a matter require court action (e.g., failure to comply with Hearing

Examiner Order). The PAO is also essential in providing updates on case law and guidance on proper investigation and enforcement procedures.

### III. PLANNED ACTIONS

Recognizing the foregoing purpose and considerations, the Parties hereby stipulate, and agree as follows:

- a. To execute the Code Enforcement Program as envisioned and articulated in County Code, including:
  - i. As articulated under Title 20, CCC, and Section 4.25 of the County Charter, the Department of Community Development shall be the lead enforcement entity concerning zoning, land divisions, environmental policy, building and fire codes, watershed planning, floodplains, and junk vehicles.
  - ii. Also as articulated under Section 4.35 of the County Charter, the Department of Health and Human Services shall be the lead enforcement entity concerning public health. Additionally, the Health Officer is authorized pursuant to RCW 70.05.070 to enforce all state health statutes and all local health regulations.
- b. To provide support for the Code Enforcement Program consistent with each department's core functions and competencies, including:
  - i. The DCD and EH shall provide continued reciprocal support in the efforts of field investigation and evidence collection, where convenient and within the scope of each other's duties, during each department's own field investigation efforts.
  - ii. The DCD and EH shall provide subject-area expert testimony and support for the prosecution of violations for which administrative remedies have failed to garner compliance.
  - iii. The CCSO shall provide safety escort for code enforcement field personnel while investigating properties with known or suspected individuals with the potential to cause physical harm. It is recognized that safety escort is dependent on CCSO Deputy availability and

typically requires advance scheduling. All parties agree to follow reasonable practices in requesting and accommodating escorted visits within staffing limits and available schedules.

- iv. The CCSO shall provide for the execution of warrants for arrest as determined by court order.
  - v. The CCSO shall provide assistance when deputy availability exists for the abatement of junk vehicles under CCC 19.60. The need for this assistance will be reduced as additional code enforcement staff become certified in VIN processing.
  - vi. The PAO agrees to provide legal advice to code enforcement staff in relation to their duties. Said services will be limited to staff availability and work capacity within the context of existing duties.
  - vii. All parties agree to maintain open channels of communication and to continue to provide input of core competencies to the code enforcement program. Central to this effort is the continuation of monthly code enforcement meetings involving representatives of all parties. Support shall include subject expert input to help prioritize and facilitate best practices for achieving abatement of violations, safety in interacting with targets of investigation, and refinement of procedures for processing of code enforcement cases. Said meetings shall also be open to representatives from the Office of the Clallam County Commissioners.
- c. To follow a specific protocol for priority one code enforcement complaints and solid waste violations under CC title 41.11.070 or 41.11.080, as follows:
- i. Any high-priority code enforcement case that has been brought before the Hearing Examiner, where an administrative order has been issued and for 30 days thereafter no compliance has occurred, shall be referred by the DCD Director to the Clallam County Sheriff who shall then determine how to best address the non-compliance, including, but not limited to, making a referral to the PAO to bring injunctive, declaratory, or a criminal action as necessary to enforce the provisions of the Clallam County Code or any state law violations.
  - ii. Any solid waste violation where the Health Officer has determined to impose penalties under Section 41.11.130, CCC and those penalties

- imposed have reached the calendar year penalty limit amount specified under Section 41.11.130, CCC, may be referred by the HHS Director or Health Officer to the Clallam County Sheriff to determine how to best address the non-compliance, including, but not limited to bringing injunctive, declaratory, or a criminal action as necessary to enforce the provisions of the Clallam County Code or any state law violations.
- iii. Notwithstanding the requirements and procedural obligations articulated in the County Code, state law or otherwise reiterated herein, all Parties reserve the right and discretion to pause enforcement processing of violations in cases where the primary driver of the violation is extreme poverty or mental health disorder.
- d. To explore feasibility and implementation of initiatives intended to enhance and improve the effectiveness of the Code Enforcement Program, including:
- i. Implementation of a Problem Oriented Policing (POP) program consisting of a volunteer cohort organized and managed by the Code Enforcement staff. The focus of the POP program would be to concentrate community-wide enforcement and outreach in localized areas encountering high levels of code infractions. Facets of the program may include field conduct and case management training, limited commissioning of cohort members, and specific targeting of retired law enforcement personnel for recruitment based on past experience and expertise in investigation, situational awareness and procedures of evidence. The CCSO will assist in the recruitment effort for the POP program.
  - ii. Inviting the participation of the CE program in the Neighborhood Watch Program and other joint community outreach events.
  - iii. Providing legal updates and training through the PAO in case law or legislative changes affecting program requirements and procedures.
  - iv. Coordinate with supporting agencies in establishing protocols for assisting people in crisis and poverty encountered during code enforcement investigations, such as involvement with area social service providers and availability of resources in abating violations.

e. The DCD hereby agrees to provide quarterly reporting to the BOCC on CE cases, including the following parameters:

i. Case Load:

1. Total current cases:
  - a. Building
  - b. Land use
  - c. Environmental Health
  - d. Junk vehicles:
    - i. Voluntary
    - ii. Enforcement
2. Cases designated by DCD as priority one (i.e., violations that present an imminent threat to public health or safety)
3. Total site visits conducted
4. Total confirmed violations/Notice of Violation Letters sent
5. Total Voluntary Compliance Agreements entered into
6. Total cases taken to administrative hearing
7. Total cases taken to Superior Court
8. Fines and penalties assessed / collected / in collection proceedings

ii. Processing/Efficiency:

1. Summary report of Top 10 priority cases
2. Average days cases are open
3. Total cases resolved by month, year (with priority one cases broken out)
4. Cases resolved by administration, enforcement, Hearing Examiner, and/or court order

Other metrics could be established for monitoring the program's effectiveness and efficiency at the request of the BOCC.

#### IV. CONTINGENCY

Despite the agreements represented in this MOU, the requirements articulated in the County Code and the good-faith commitment of the participants herewith, the full involvement of all participants is subject to the continued personal commitment of the elected officials and department heads involved. The autonomy inherent with being an elected official suggests that, at some point and despite the regulatory obligations articulated herein, one or more departments could conceivably refuse to participate in one or more of the essential functions of the code enforcement program. The

following establishes a contingency strategy that could be implemented should such an event occur:

- a. In the event the DCD refuses to participate in the code enforcement program, the following contingencies may be implemented:
  - i. The Board of County Commissioners may appoint by ordinance, the CCSO as lead enforcement entity of Title 20, CCC (CCC 20.08.010(4) & (5)). Since enforcement of the Junk Vehicle Ordinance is already within the purview of the CCSO (CCC 19.60.060(1)), no additional regulatory barriers would exist.
  - ii. It would be recommended that additional funding be allocated to the code enforcement effort under the CCSO in order to hire code enforcement field personnel, and/or personnel with subject area expertise in land use, shoreline, critical area and other disciplines subject to enforcement under Title 20, CCC.
  
- b. In the event the PAO refuses to participate in the code enforcement program, the following contingencies may be implemented:
  - i. Section 20.08.020, CCC, provides that code violations are public nuisances, the violation of which are misdemeanors enforceable by the CCSO.

## V. POINTS OF CONTACT

The points of contact responsible for administration of this MOU are:

- DCD: DCD Director Bruce Emery
- EH: Health & Human Services Director Kevin LoPiccolo
- Sheriff's Office: Sheriff Brian J. King
- Prosecuting Attorney's Office: Prosecuting Attorney Mark Nichols

## VI. LIMITATIONS

- a. This MOU is neither a fiscal nor a funding obligation document. All commitments made pursuant to this MOU are subject to the availability of budgeted funds and each Party's budget authorities and priorities, based on

allowances approved by the BOCC. Nothing in this MOU requires the parties to commit, obligate, or expend their budgeted funds.

- b. Any endeavor involving the transfer of funds between the Parties to this MOU will be executed in separate agreements between or among the participating Parties.
- c. Nothing in this MOU alters the statutory authorities, the Clallam County Charter or any other authorities of the Parties. This MOU is intended to facilitate cooperative efforts for the mutual provision of services, support, and technical assistance by the Parties in the conduct of their official business.
- d. This MOU is strictly for internal management purposes for each Party. This MOU is a voluntary agreement that is not legally enforceable and shall not be construed to create any legal obligation on the part of any Party.
- e. This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity against any of the Parties, their employees, or any other person. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity. This MOU is subject to, and will be carried out in compliance with, all applicable laws, regulations, and other legal requirements.
- f. The Parties will consult in advance on the form, content, and timing of any public statements or press releases regarding this MOU.

## VII. DURATION

This MOU becomes effective on the date of final signature and will remain in effect indefinitely from the effective date, or in the case of signature by an elected official, for the duration of that official's time in office. Any Party upon 90-day notice to the other Parties and the BOCC may suggest amending this MOU. This MOU can only be amended through a written agreement signed by all Parties.

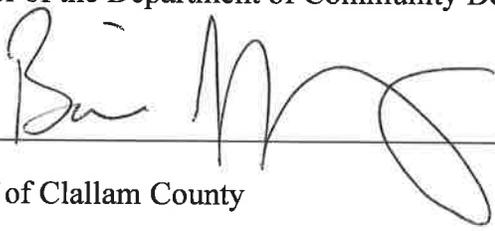
## VIII. TERMINATION

Any Party upon 90-day written notice to the other Parties and the BOCC may terminate this agreement. The 90-day notice to the BOCC is required so as to provide the BOCC sufficient time to assess what measures, if any, need to be taken to assure a robust code enforcement program in lieu of this MOU.

This Memorandum of Understanding is agreed to and accepted by:

  
\_\_\_\_\_  
Mark Ozias  
Chair, Board of Clallam County Commissioners, Date 4/18/23

  
\_\_\_\_\_  
Director of the Department of Community Development Date 4/11/2023

  
\_\_\_\_\_  
Sheriff of Clallam County Date 4/11/23

  
\_\_\_\_\_  
Director of Health & Human Services Date 4/11/23

  
\_\_\_\_\_  
Clallam County Health Officer Date 4/11/23

  
\_\_\_\_\_  
Prosecuting Attorney of Clallam County Date 4/11/2023