

FILED
WASCO COUNTY

2009 APR 29 P 1:23

KAREN LEBRETON COATS
COUNTY CLERK

IN THE COUNTY COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE ADOPTION OF THE)
WASCO COUNTY CODE COMPLIANCE AND) ORDINANCE
NUISANCE ABATEMENT ORDINANCE.) No. 09-004

WHEREAS, the Wasco County Planning & Development Department has requested adoption of a unified nuisance ordinance to supersede the Wasco County Solid Waste and Disposal Ordinance, Chapter 102, Section 020, Abatement of Nuisances; Wasco County Land Use and Development Ordinance Chapter 15, Sections 010 through 190; and Wasco County National Scenic Area Land Use and Development Ordinance Chapter 15, Sections 030 through 190; and

WHEREAS, on March 4, 2009, the Wasco County Planning & Development Department held a legally notified public workshop with the Wasco County Court, at the County Courtroom, Room 202, of the Wasco County Courthouse, The Dalles, Oregon, to review back ground information and County Court options for the purpose of identifying preferred options and any potential need for additional information prior to the April 1, 2009, Public Hearing; and

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1 - ORDINANCE

2009-0192(53)

1 WHEREAS, the Wasco County Court met at the hour of 10:00 a.m. on
2 Wednesday, April 1, 2009, in the Wasco County Courtroom, Room 202, of the
3 Wasco County Courthouse, in The Dalles, Oregon, for a legally notified Public
4 Hearing on the Wasco County Planning & Development Department's request
5 for adoption of the Wasco County Code Compliance and Nuisance Abatement
6 Ordinance to supersede the Wasco County Solid Waste and Disposal
7 Ordinance, Chapter 102, Section 020, Abatement of Nuisances; Wasco County
8 Land Use and Development Ordinance Chapter 15, Sections 010 through 190;
9 and Wasco County National Scenic Area Land Use and Development Ordinance
10 Chapter 15, Sections 030 through 190. The Court reviewed the record, heard
11 the Staff recommendation and all relevant testimony from the parties,
12 reviewed the proposed Ordinance and made recommendations for changes to
13 the proposed Ordinance for further consideration at the continuation of the
14 Public Hearing on April 15, 2009; and
15

16
17 WHEREAS, the Wasco County Court met at the hour of 10:00 a.m. on
18 Wednesday, April 15, 2009, in the Wasco County Courtroom, Room 202, of
19 the Wasco County Courthouse, in The Dalles, Oregon, for the continuation of
20 the Public Hearing on the adoption of the Wasco County Code Compliance
21 and Nuisance Abatement Ordinance. The Court reviewed the record, heard
22 the Staff recommendation and all relevant testimony from the parties, then
23 deliberated on the Wasco County Planning & Development Department's
24 request for adoption of the Wasco County Code Compliance and Nuisance
25

26 //

1 Abatement Ordinance to supersede the Wasco County Solid Waste and
2 Disposal Ordinance, Chapter 102, Section 020, Abatement of Nuisances; Wasco
3 County Land Use and Development Ordinance Chapter 15, Sections 010
4 through 190; and Wasco County National Scenic Area Land Use and
5 Development Ordinance Chapter 15, Sections 030 through 190.

6 NOW, THEREFORE IT IS HEREBY ORDAINED BY WASCO COUNTY
7 AS FOLLOWS:

- 8
- 9 1. That the request by the Wasco County Planning & Development
10 Department for adoption of the attached and hereto incorporated Wasco
11 County Code Compliance and Nuisance Abatement Ordinance is approved as
12 amended by a vote of 3 to 0; said Ordinance will supersede the Wasco County
13 Solid Waste and Disposal Ordinance, Chapter 102, Section 020, Abatement of
14 Nuisances; Wasco County Land Use and Development Ordinance Chapter 15,
15 Sections 010 through 190; and Wasco County National Scenic Area Land Use
16 and Development Ordinance Chapter 15, Sections 030 through 190; and
17
- 18 2. That the Wasco County Code Compliance and Nuisance
19 Abatement Ordinance shall take effect on July 14, 2009, which is 90 days after
20 its adoption.

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1 Regularly passed and adopted by the County Court of the County of
2 Wasco, State of Oregon, this 15th day of April, 2009.

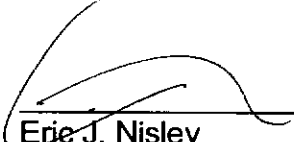
3 WASCO COUNTY COURT

4 
5 _____
6 Dan Ericksen, County Judge

7 
8 _____
9 Sherry Holliday, County Commissioner

10 
11 _____
12 Bill Lennox, County Commissioner

13 APPROVED AS TO FORM:

14 
15 _____
16 Eric J. Nisley
17 Wasco County District Attorney

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CHAPTER 1 INTRODUCTORY PROVISIONS

SECTION 1.010 Authority

This Ordinance is enacted pursuant to the provisions of Oregon Revised Statutes Chapters 92, 197, 203, 215, 433, 449, 459 and Public Law 99-663. It also adopts by reference the National Scenic Area Land Use and Development Ordinance and the Wasco County Land Use and Development Ordinance.

Some of the language in this ordinance duplicates that from the National Scenic Area Land Use and Development Ordinance and the Wasco County Land Use and Development Ordinance. In the event this duplicative language is altered the language in the amended Land Use and Development ordinance shall apply until this ordinance can be updated.

SECTION 1.020 Title

This Ordinance shall be known as the Wasco County Code Compliance and Nuisance Abatement Ordinance.

SECTION 1.030 Purpose

To protect: the health, safety, and general welfare of Wasco County citizens; to conserve, stabilize, and protect property values; and to preserve and enhance community livability by:

- A. Establishing an administrative framework for the enforcement and abatement of nuisances;
- B. Establishing and enforcing minimum standards regulating the accumulation of waste, solid waste, tires, and inoperable or abandoned vehicles on public and private property; and by,
- C. Designating violations of the Wasco Land Use and Development Ordinance (LUDO) and National Scenic Area LUDO as nuisances that require enforcement action and abatement.

SECTION 1.040 Interpretation

The provisions of this Ordinance shall be liberally construed to affect the purpose. These provisions are declared to be the minimum requirements to fulfill objectives stated in the Purpose above. When conditions herein imposed are less restrictive than comparative provisions imposed by any other provision of this Ordinance by resolution of State Law or State Administration regulations, then the more restrictive shall govern.

SECTION 1.050 Scope

The provisions of this Ordinance shall apply to all unincorporated property in Wasco County except as otherwise excluded. The Solid Waste provisions of this Ordinance shall apply to all property in Wasco County.

The remedies provided for failure to comply with this Ordinance shall not be exclusive and shall be in addition to other remedies provided by law. The County expressly reserves the right to seek abatement in addition to and not in lieu of administrative enforcement under Chapter 3.

SECTION 1.060 Administration Authority and Responsibility

The County Court is hereby authorized to administer and enforce all of the provisions of this Ordinance. The County Court may employ qualified officers, inspectors, assistants, and other employees as shall be necessary to carry out the provisions of this Ordinance. Such County staff persons shall have full power and authority to do any and all things necessary, incidental or proper in the enforcement of said ordinance, excluding the power to arrest. The authority of the designated Compliance Officer to enforce the provisions of this Ordinance is independent of, and in addition to, the authority of other County officials to enforce the provisions of any other County Code.

SECTION 1.070 Private Right of Action /Civil Penalty

Pursuant to ORS 215.185, a person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

In addition to any other penalty provided herein, any person creating or maintaining a nuisance may be liable for damages to any person injured thereby. Damages could include attorney fees and costs incurred by the plaintiff in maintaining an action to recover damages and any action to abate the nuisance. No action shall be maintained against the County for failure to abate a nuisance under this ordinance.

SECTION 1.080 Severability

The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 1.090 Repeal

The following ordinances, together with all amendments thereto are hereby superceded or repealed:

Wasco County Solid Waste and Disposal Ordinance, Chapter 102, Section 020, Abatement of Nuisances; Wasco County Land Use and Development Ordinance Chapter 15, Sections 010 through 190; and National Scenic Area Land Use and Development Ordinance Chapter 15, Sections 030 through 190.

SECTION 1.100 Saving Clause

Notwithstanding the Repeal section above, ordinances repealed thereby shall remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated those ordinances prior to the effective date of this ordinance.

SECTION 1.110 Effective Date

This Ordinance shall become effective when filed with the Wasco County Clerk. Amendments hereto, unless otherwise specified, shall become effective when filed with the County Clerk.

SECTION 1.120 Definitions

For the purpose of this Ordinance, certain words and terms are defined as follows. Words used in the present tense include the future. Words in the singular number include the plural. Words in the plural include the singular. The word "Building" includes the word "Structure". The word "Shall" is mandatory and not directory.

Abandoned Vehicle - A vehicle which satisfies one of the following criteria:

- a. The vehicle is not currently licensed and registered for operation;
- b. The vehicle is being used to store junk, solid waste, or waste as defined in this section; or
- c. The vehicle has parts which have been discarded, dismantled, or partially dismantled, or stripped, or the vehicle is in a rusted, damaged, wrecked or other condition which renders the vehicle inoperable.

Abatement of a Nuisance - The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.

Administrative Civil Penalty - May include a monetary penalty, restitution, costs and assessments, and an order of abatement.

Approved - Meets the standards set forth by applicable Wasco County codes, including any applicable regulations for electric, plumbing, building, or other sets of standards included by reference in this Ordinance.

Compliance Officer - The Wasco County Planning Director, or their designee, or the Environmental Health Officer, or their designee, or any other person designated by the County Court to enforce this Ordinance.

Compliance Notices and Compliance Orders – Documents that are sent to the owner of record or person in charge of property during and after the code compliance process. They include but are not limited to: **Notice of Violation, Notice of Failure to Comply/Administrative Civil Penalty, Notice of Abatement Cost, Notice of Summary Abatement, Order to Correct** and all forms of **Order to Abate Nuisance**.

Conditions of Approval - Specific requirements that must be fulfilled by the property owner to insure the legality of a proposed development or action.

Conditional Use - An activity which is basically similar to the uses permitted in a particular zone but which may not be entirely compatible with the permitted uses. A conditional use must be approved.

County - The County of Wasco, Oregon.

County Charges – Includes all billable hours, fees, services, materials, or any expense incurred by the County due to a nuisance violation.

County Court - The County Court (Commissioners) of Wasco County, Oregon.

Development - Development includes any man-made change to improved or unimproved real estate, including but not limited to: construction, installation or change of a building or other structure; change in use of a building or structure; land division; establishment, or termination of right of access; storage on the land; tree cutting; drilling; and site alteration, such as that due to: land surface mining; dredging; filling; grading; excavation; construction of earthen berms; paving; clearing; or improvements for use as parking.

Disabled Vehicle - Any vehicle which is inoperative, wrecked or dismantled, or partially dismantled.

Dwelling - Any structure containing dwelling units, including all dwelling classifications covered by the LUDO or NSA LUDO.

Dwelling Unit - One or more habitable rooms (attached or detached) that are occupied by, or designed or intended to be occupied by, one person or by a family or group of housemates living together as a single housekeeping unit that include facilities for sleeping, cooking, and sanitation.

Gorge Commission - The Columbia River Gorge Commission, as established by Public Law 99-663, the Columbia River Gorge National Scenic Area Act.

GMA - General Management area of the Columbia River Gorge National Scenic Area.

Health Officer - The Wasco-Sherman County District Health Unit Officer or Environmental Health Officer.

Hearings Officer – Individual or group appointed by the County Court to issue orders and hear appeals of enforcement actions initiated under this Ordinance.

Hearings Officer Order – A written decision which requires an owner or person in charge of property to meet the requirements of Compliance Notices or Compliance Orders and pay all penalties, abatement costs, fees, and County charges.

Home Occupation - Any lawful activity carried on within a dwelling or other building normally associated with uses permitted in the zone and which said activity is secondary to the primary use of the property for residential purposes consistent with the LUDO or NSALUDO Home Occupation provisions.

Inspection Warrant - An order from the Circuit Court authorizing an inspection/investigation to be conducted at a designated property to determine if the property is in violation of this ordinance.

Junk - Includes, but is not limited to, all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material. For purposes of this subsection, the term "old" shall include, but not be limited to, a description of items which are dilapidated, abandoned, inoperable, or otherwise in a state of disrepair.

Key Viewing Area (KVA) - Those portions of important public roads, parks or other vantage points within the Scenic Area from which the public views as scenic landscapes. These include:

- Historic Columbia River Highway
- Crown Point
- Highway I-84, including rest stops

- Multnomah Falls
- Washington State Route 14
- Beacon Rock
- Panorama Point Park
- Cape Horn
- Dog Mountain Trail
- Cook-Underwood Road
- Rowena Plateau and Nature Conservancy Viewpoint
- Portland Women's Forum State Park
- Bridal Veil State Park
- Larch Mountain
- Rooster Rock State Park
- Bonneville Dam Visitor Centers
- Columbia River
- Washington State Route 141
- Washington State Route 142
- Oregon Highway 35
- Pacific Crest Trail

Special Management Area (SMA) only:

- Old Washington State Route 14 (County Road 1230)
- Wyeth Bench Road
- Sherrard Point on Larch Mountain

LUDO - The Wasco County Land Use and Development Ordinance.

Maintained Compost Area - A small portion of a property set aside for the purpose of encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer for the soil on the property. A maintained compost area shows clear indicators that the yard debris placed there is being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump it without reasonable expectation of rapid decomposition is not a maintained compost area.

May - Permits or allows an action.

Motor Vehicle - A vehicle that is self-propelled or designed for self-propulsion.

Non-Resource Zones - Zones whose primary designations include, but are not limited to, residential, commercial and industrial development. These designations include all

residential, commercial, industrial zones as well as the Forest Farm, Agricultural Recreation, Rural Community, Public Recreation and Open Space designations.

Not Visually Evident (Special Management Area only) - A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

NSA LUDO - National Scenic Area Land Use and Development Ordinance for Wasco County.

Nuisance - Includes, but is not limited to, any annoying, unpleasant, or obnoxious condition or practice causing an unreasonable threat to the public health, safety, peace or welfare and defined as a nuisance in this ordinance.

Nuisance Abatement Warrant - An order from the Circuit Court authorizing the removal and abatement of any nuisance as authorized by this ordinance, including disposal of the nuisance items removed in an appropriate manner.

Nuisance Illegal Use - Uses of real property which are not in compliance with NSA LUDO or LUDO or The Wasco County Solid Waste Ordinance. These include, but are not limited to: illegal dwellings; illegal accessory structures; illegal businesses; illegal home occupations and illegal parking lots.

O.R.S. - The Oregon Revised Statutes.

Order to Abate - A written notice sent to the owner of real property, and/or posted upon any property that has been declared a nuisance, that orders the owner to abate the nuisance within a specified time frame or experience abatement of the nuisance by Wasco County. Abatement by the County results in the assessment of costs to the owner of the property.

Order to Correct - A written notice sent to the owner of real property that has been declared a nuisance that orders the owner to correct the declared violation or experience administrative civil penalties and/or abatement of the nuisance by Wasco County.

Owner of Record - The individual, firm, association, syndicate, partnership, or corporation whose name and address is listed as the owner of a property by the County Tax Assessor on the County Assessment and Taxation records.

Partition Land - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include

divisions of land resulting from the creation of cemetery lots, and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where any additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

Permit - Written authorization from a county agency which allows a property owner to develop or use their property in a specified manner.

Person - Includes individuals, corporations, associations, firms, partnerships and joint stock companies.

Person in Charge of Property - An owner, agent, occupant, lessee, tenant, contract purchaser, or other responsible person having possession or control of a property or of a property which abuts a public way where a nuisance exists.

Posting a Property - The display of any written notice, authorized by this ordinance, upon any property deemed to be in violation of this ordinance.

Property - Any real property and all improvements, buildings or structures on real property, from property line to property line.

Property Lines - The lines bounding a property as defined herein.

Putrescible Material - Organic material that decomposes and gives rise to foul or offensive odors, or foul or offensive by-products.

Residential Rental Property - Any property within the County containing one or more dwelling units which are not occupied as the principal residence of the owner.

Recreational Vehicle or Camping Vehicle - A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes, but not for residential purposes, and is identified as a recreational vehicle by the manufacturer. A recreational or camping vehicle shall be considered a dwelling unit if any of the following is true:

- a. It is connected to a sewer system (including septic tank) except for the purpose of emptying the holding tanks; after such time it must be disconnected;
- b. It is connected to water or electrical lines except for purposes of charging the batteries or filling water tanks; after such time it must be disconnected;

NOTE: Allowances can be made for subsections **a** and **b** above if in the opinion of the Compliance Officer evidence suggests that the use of the RV is occasional and temporary for the purpose of accommodating visitors

- c. It is occupied for more than 60 days, on the same property, in any consecutive 12 month period;
- d. It is parked on property that is without a legally placed dwelling for more than 30 days during any 6 month period.

Resource Zones - Zones primarily designated for farm or forest use. The zoning is designed to protect commercial farming and forestry operation from incompatible uses. In the event of a conflict between farming or forestry operations and other uses, this Ordinance will be interpreted in favor of the resource management practice.

Sale or Sell - Includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

Scenic Area - The Columbia River Gorge National Scenic Area.

Scenic Area Review - A development review process, conducted by the Wasco County Planning Department under the requirements of the National Scenic Area Act and in compliance with regulations set forth in the Wasco County National Scenic Area Land Use and Development Ordinance, whose purpose is to preserve, protect and enhance the scenic, natural, cultural and recreational resources of the Columbia River Gorge National Scenic Area and to assure that development occurs in a manner which is compatible with its unique qualities.

Serving notice - The mailing of a certified, return-receipt requested letter is considered a serving of notice under this Ordinance.

Sewage - Water-carried human or animal waste and kitchen, bath, or laundry waste, from a structure, together with such groundwater infiltration and surface water as may be present.

Shall - Action is mandatory.

Should - Action is encouraged.

Solid Waste - Includes all putrescible and nonputrescible wastes, whether in solid or semi-solid form, including but not limited to: garbage, trash, rubbish, refuse, ashes, paper, cardboard; commercial and industrial wastes; demolition and construction wastes; manure, vegetable or animal solid or semi-solid wastes including yard debris, dead animals; medical and infectious waste as defined in ORS 459.386 and OAR 340-

93-030 (42) and (52); all wastes capable of being recycled that are commingled with other wastes; and, incidental Household Hazardous Waste or Small Quantity Generator Hazardous waste as defined under 40 CFR 261.5. The term "Solid Waste" shall not include Hazardous Waste as defined in ORS 466.005 or any of the following:

- a. Materials used for fertilizer or for other productive purposes on land in the growing and harvesting of crops or the raising of fowl or animals;
- b. Septic tank and cesspool pumping or chemical toilet waste;
- c. Reusable beverage containers as defined in ORS 459A.725; and
- d. Source separated principal recyclable materials as defined in ORS Chapter 459 and the Rules promulgated thereunder, which have been purchased or exchanged for fair market value.

SMA - Special Management Area of the Columbia River Gorge National Scenic Area.

Structure - Anything constructed, erected, or air-inflated, permanent or temporary, which requires location on the ground. Among other things, the term structure includes buildings, walls, fences, billboards, poster panels and parking lots. Retaining walls less than four (4) feet in height are not considered structures for the sake of general property line setbacks. Any item defined as a structure in the LUDO or NSA LUDO.

Summary Abatement - Abatement of a nuisance by the County, or by a contractor hired by the County, without obligation to give prior notice of the abatement action to the owner or occupant of the property.

Temporary Use Permit - An approval that allows the limited use of structures or activities which are temporary or seasonal in nature that do not conflict with the zoning district in which they are located.

Tire - The band of material used on the circumference of a wheel which forms the tread that comes in contact with the surface of the road.

Truck Camper - A recreation vehicle, camper, or canopy that fits onto the bed of a pickup or flat-bed truck, and that is not used as a permanent residence.

Unregistered Vehicle - A vehicle without a license plate or with an expired license plate.

Use - The purpose for which land or a building is arranged, designed or intended, or for which either land or a building may be occupied or maintained.

Use, Conditional - The term applied to a use which may be permitted by the application for, the issuance of a Conditional Use Permit.

Use, Prohibited - A use not allowed in a zoning district.

Vehicle - Any device in, upon, or by which any person or property is or may be transported, or drawn upon a public highway. This includes vehicles that are propelled or powered by any means, but does not include a device propelled by human power. Recreational vehicles, camping vehicles, truck campers and motor homes are included in this definition.

Visually Subordinate - A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape.

Waste - Useless, unwanted or discarded materials. The fact that materials, which would otherwise come within the definition of Solid Waste or Waste, may from time-to-time have value and thus **could** be utilized, shall not remove them from the definition.

Zoning Approval - Includes discretionary or non-discretionary planning approval for any structure or use as required by the applicable land use and development ordinance.

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CHAPTER 2 NUISANCE CODES

SECTION 2.010 Chapter 2 Purpose

The purpose of Chapter 2 is to provide codes which will be used to regulate public health violations, including but not limited to, the accumulation of waste, solid waste, tires, and inoperable or abandoned vehicles on public and private property as well as designated violations of the Wasco Land Use and Development Ordinances.

The remedies provided for failure to comply with any provision of this ordinance shall not be exclusive and shall be in addition to other remedies provided by law. The County expressly reserves the right to seek abatement, in addition to, and not in lieu, of administrative enforcement under Chapter 3.

Nothing contained herein shall preclude civil actions alleging failure to comply with the provisions of this chapter.

SECTION 2.020 Exemptions

Unless specifically provided otherwise, nuisances as defined by this ordinance do not include:

- A. Disposal sites operated in compliance with regulations promulgated by the Environmental Quality Commission, Department of Environmental Quality, or other ordinances or regulations of the County;
- B. Outdoor storage of inoperable or unregistered vehicles when the land has zoning approval which permits or conditionally permits outdoor storage of inoperable or used vehicles and the vehicles are stored in accordance with applicable provisions;
- C. Property located within the corporate limits of incorporated cities within Wasco County, unless intergovernmental agreements have transferred zoning implementation and/or code compliance authority to Wasco County; and
- D. Property located within the urban growth boundary of a city within Wasco County if an intergovernmental agreement has transferred zoning implementation and/or code compliance authority to that city.
- E. Pursuant to the Wasco County Farming & Forest Practices Protection & Complaint Mediation Ordinance a resource use complaint shall only be processed through Section 5 of that ordinance and not this ordinance.

NOTE: sub-sections C and D above do not apply to solid waste nuisances

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SECTION 2.030 Failure to Comply

- A. A person who fails to comply with any provision of this Ordinance shall be subject to administrative enforcement pursuant to Chapter 3.
- B. An Order to Correct or Order to Abate may be signed, issued and mailed or posted on the property by any designated agent of the County.
- C. Persons who fail to comply with this Ordinance are subject to the administrative civil penalties and abatement actions set forth in this Ordinance.
- D. The imposition of a penalty does not relieve a responsible person of the duty to abate the nuisance.
- E. Any failure of the County to enforce a provision of this Ordinance does not constitute permission, acquiescence or a right to continue a use that constitutes a violation.

SECTION 2.040 Unenumerated Nuisances

The acts, conditions or objects specifically enumerated and defined in this Chapter are declared public nuisances and may be abated by the procedures set forth in Chapter 3. In addition to the nuisances specifically enumerated in this Ordinance, every other thing, substance or act that is determined by the Compliance Officer or County Court to be injurious or detrimental to the public health, safety or welfare of the County is declared a nuisance and may be abated as provided for in this ordinance.

SECTION 2.050 Declared a Nuisance

The things, practices or conditions in Sections 2.060 through 2.100 constitute a nuisance and no person responsible shall cause or permit such a condition to exist.

SECTION 2.060 Solid Waste Nuisances

A. Accumulation, Collection or Storage of Solid Waste or Waste

All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage, so as not to breed insects and rodents, produce dangerous or offensive gases, odors and bacteria, or other unsanitary conditions, or create a fire hazard.

Any accumulation, collection or storage of solid waste or waste, shall constitute a nuisance, and no person responsible shall cause or permit such condition to exist unless the person responsible is licensed by lawful authority to operate a business specifically for those purposes.

A maintained compost area of a size and content consistent with home use is excluded.

B. Storage and Collection of Household Garbage

1. All household garbage shall be stored in receptacles which are free from holes and covered with tight fitting lids.
2. If a violation of Section 2.060 has been identified, where residential garbage service is available, the owner of the residential property shall provide, in a location accessible to all dwelling units on the property, at least one 30 gallon receptacle for each dwelling unit, or receptacles with a capacity sufficient to prevent the overflow of garbage and rubbish from occurring, and into which garbage and rubbish from the dwelling units may be emptied for storage between days of collection. Receptacles and lids shall be watertight and provided with handles. All receptacles shall be maintained free from holes and covered with tight-fitting lids at all times.

The owner of the unit(s) shall subscribe to and pay for regular garbage removal service from the receptacles required by this subsection, by a refuse collection licensee or franchisee as defined in the Wasco County Solid Waste Ordinance.

C. Storage of Non-Trash Items. All items listed below shall be removed and kept removed from properties, unless specifically authorized by ordinance to do otherwise:

1. Accumulations of wood pallets;
2. All firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property;

Wood piles that accumulate, on agriculturally zoned land, as a result of accepted farming practice are exempt from this section.

3. Accumulations of vehicle parts or tires;
4. Construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site;
5. Appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration as well as protect children from becoming trapped within them;
6. Indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property;

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7. Recycling materials except for reasonable accumulations (amounts consistent with a practice of regular removal) that are stored in a well-maintained manner; and
8. Other non-trash items which:
 - a. Are of a type or quantity inconsistent with normal and usual use; or
 - b. Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

D. Outdoor Nuisance Storage of Tires

1. The outdoor storage of 5 or more used tires on private or public property in those areas within urban growth areas or within areas zoned for non-resource use in the LUDO or NSA LUDO, is prohibited, unless the tires are used for DEQ permitted agricultural or landscaping purposes.
2. The outdoor storage of 10 or more used tires on private or public property in resource zoned lands is prohibited, unless the tires are used for DEQ permitted agricultural or landscaping purposes.
3. Any storage of tires that constitutes a health hazard on any property under the jurisdiction of the Wasco Sherman Public Health Dept is prohibited.
4. Notwithstanding the above, the storage of tires on private property is permitted if the owner of record or person in charge of the property is conducting a legally operated business that normally deals in tires, or if the tires are completely enclosed within a building and do not constitute a fire hazard or health hazard.

SECTION 2.070 Vehicular Nuisances

A. Abandoned Vehicles

1. No person shall park, store, leave, or permit the parking, storing, or leaving of an abandoned, unregistered or inoperable vehicle upon public property, including a public right-of-way.
2. Removal of an abandoned vehicle from one tax lot to another tax lot, or removal of an abandoned vehicle from private property onto a public right-of-way, or removal of an abandoned vehicle from one location to another location on a public right-of-way, after the responsible party has received a Notice of Violation shall not prevent the County from proceeding with the process to have the vehicle towed from a tax lot or the public right-of-way and impounded under the provisions of Chapter 3.

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B. Nuisance Vehicle Storage

1. Storing or permitting to be stored two or more abandoned, unregistered or disabled vehicles, or portions thereof, or any vehicle leaking automotive fluids onto the ground or into a waterway, on any private property in non-resource zones, is prohibited, unless the vehicle is completely enclosed within a building, is covered with a fitted car cover specifically designed to protect vehicles from the elements, or is stored on the premises of a business enterprise dealing in used vehicles that is being lawfully conducted within the County.
2. Storing or permitting the storing of more than three abandoned, unregistered or inoperable vehicles, or portions thereof, or any vehicle leaking automotive fluids onto the ground or into a waterway, upon private property in resource zones, unless the vehicle is completely enclosed within a building, is covered with a fitted car cover specifically designed to protect vehicles from the elements, or is stored on the premises in connection with a business enterprise dealing in used vehicles which is being lawfully conducted within the County.

Farm-related equipment that is not required to be registered as a motor vehicle is excluded from this section if it meets the following criteria:

- a. Equipment function is clearly related to farming/ranching practices and/or the equipment is historically related to agricultural operations, such as combines;
- b. Equipment is not leaking automotive fluids onto the ground or into a waterway; and
- c. Multiple pieces of equipment are stored together, not spread out across the property

The owner of record or person in charge of the property must be able to demonstrate that non-registered farm equipment is either actively used as part of the agricultural operation or is of historical significance.

3. Removal of an unregistered or inoperable vehicle from one tax lot to another tax lot, or removal of an unregistered or inoperable vehicle from private property onto a public right-of-way, or removal of an unregistered or inoperable vehicle from one location to another location on a public right-of-way, after the responsible party has received a Notice of Violation shall not prevent the County from proceeding with the process to have the vehicle towed from a tax lot or the public right-of-way and impounded under the provisions of Chapter 3.

- C. Illegal Parking lot: Storing or permitting to be stored in excess of 30 days within any consecutive 12 month period, more than three operational and registered vehicles, not registered to the property address, unless they are completely enclosed within a

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building or are stored on the premises of a business enterprise dealing in new or used vehicles or the storage of vehicles lawfully conducted within the County.

SECTION 2.080 Land Use and Zoning Nuisances

A. Development without Land Use Review & Approval (whether approvable or not): Any development within Wasco County conducted without having obtained the permits and approvals required by the LUDO or NSA LUDO regardless of whether or not it could comply with all applicable land use regulations.

B. Non-Compliance with Approval: Development that does not comply with the specifications set out in the approval issued by the Wasco County Planning Department or built inconsistently with Approval. Including but not limited to: placing structures in different locations than approved; not meeting setback or buffer requirements; building structures taller or larger than approved; or increasing or altering the nature and intensity of the approved use.

C. Continuation of Use after Expiration of Approval

1. Failure to discontinue use granted via a Permit, Temporary Use or other, after the approval period has expired.

A Permit may be approved with limited time duration. Use continuing beyond the expiration of approval is prohibited.

2. Failure to remove additional dwelling within sixty (60) days of the expiration of a Temporary Use Permit granted due to family hardship or until a primary dwelling is built.

Temporary placement of an additional dwelling shall be granted for a specified time period, with the period not exceeding two (2) years. If the temporary placement is not renewed, the owner of record or person in charge of the property shall have sixty (60) days in which to remove the additional dwelling from the property, unless an extension is granted.

D. Nonconforming Uses: The following nonconforming uses shall be considered permitting violations

1. Any change, alteration, restoration or replacement of structures, uses or area related to the pre-existing nonconforming structure, use or area that fails to conform to the applicable nonconforming use standards or those of the current zoning designation; and

2. Use or employment of a structure, use or area that is discontinued or abandoned according to the applicable nonconforming use standards.

- E. Outdoor Lights: Outdoor lights shall be directed downward and sited, hooded, and shielded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, waterways or key viewing areas (National Scenic Area). Shielding and hooding materials shall be composed of non-reflective, opaque materials.

SECTION 2.090 Illegal Uses

No development may occur that conflicts with the requirements of the LUDO or NSA LUDO, or that require permits and approvals that were not obtained. These illegal uses include, but are not limited to the following:

A. Illegal Dwellings:

1. Structures designed for, or used in the capacity of a dwelling which did not receive all of the applicable approvals (local, state or federal) that were required at the time the structure was built or placed on the property.
2. Dwellings or parts thereof erected, moved, reconstructed, extended, enlarged or altered contrary to the provisions of the LUDO or NSA LUDO.

B. Illegal Structures

Structures or parts thereof erected, moved, reconstructed, extended, enlarged or altered contrary to the provisions of the LUDO or NSA LUDO.

C. Illegal Home Occupations:

Any for-profit activity conducted, without Planning Department approvals, within a dwelling or other building, normally associated with uses permitted in the zone, contrary to the provisions of the LUDO or NSA LUDO.

D. Illegal Businesses:

Any for-profit activity conducted, without Planning Department approvals, within a dwelling or other building or on any property normally not associated with uses permitted in the zone, contrary to the provisions of the LUDO or NSA LUDO.

E. Illegal Parking lot:

Storing or permitting to be stored, in excess of 30 days within any consecutive 12 month period, more than three operational and registered vehicles, not registered to the property address, unless they are completely enclosed within a building or are stored on the premises of a business enterprise dealing in new or used vehicles or the storage of vehicles that is lawfully conducted within the County.

F. Illegal Land Divisions/Property Line Adjustments:

Partitions, Replats, Property Line Adjustments or other land divisions that do not comply with LUDO or NSA LUDO requirements and/or ORS 92.

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- G. Other uses: Any other use of land that occurs in Wasco County that the Compliance Officer or County Court determines is in conflict with LUDO or NSA LUDO requirements.

SECTION 2.100 National Scenic Area (NSA) Violations

To safeguard the special characteristics of the Columbia River Gorge, properties built within the National Scenic Area after November 17, 1986, are required to fulfill standards that do not apply to properties within the rest of Wasco County. These standards may include restrictions on property use and on the colors and materials that can be utilized in development or remodeling. Violation of these standards constitutes a violation of this Ordinance.

No structure or premises in the Columbia River Gorge National Scenic Area portion of Wasco County shall hereafter be used or occupied and no part or structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this Ordinance. Violations include, but are not limited to the following:

A. Violation of Scenic Standards:

Development that does not comply with the following scenic standards is a violation of this Ordinance:

1. The colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to certain additions, which may match the color of existing buildings;
2. Structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys; and
3. Structures topographically visible from a key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).

B. Violation of New Cultivation and Recultivation Restrictions

1. GMA: New cultivation is prohibited without review. Any operation that would cultivate land that has not been cultivated, has lain idle, for more than 5 years, or is cultivated beyond the depth of what has been previously cultivated shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.
2. SMA: Agricultural uses within fields or areas that have not been previously disturbed and regularly worked are prohibited without review.

C. Violation of Structure Restrictions: No structures larger than 60 square feet in area and 10 feet in height are permitted without review.

D. Violation of Fence Restrictions:

1. Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses greater than 500 feet in length and 10 feet in height that are accessory to an existing dwelling are not permitted without review. Woven-wire fences must be brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

2. Wire-strand fences greater than 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency are not permitted without review. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

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CHAPTER 3 ADMINISTRATIVE ENFORCEMENT

SECTION 3.010 Establishment of Administrative Civil Enforcement Procedures

Pursuant to ORS 203, administrative civil enforcement procedures are hereby established for the purpose of providing for the remediation of any failure to comply with County Ordinances.

It is further intended that a civil administrative process be established in order to provide a convenient and practical forum for the administrative hearing of any appeal arising out of any failure to comply with this Ordinance, and for the hearing and determination of factual issues as may be relevant in connection with, but not limited to, nuisance abatement.

It is the county's policy to maximize code compliance and to increase the incentives for compliance by also creating a county administrative procedure for assessing and collecting civil penalties against county code violators. The county believes the assessment and collection of civil penalties through such an administrative procedure is the most effective way to obtain code compliance.

Abatement of a nuisance by the County will only be initiated if all other administrative remedies to correct violations have failed or if the nuisance constitutes a health or safety hazard.

SECTION 3.020 Authorization to Inspect

The Compliance Officer is authorized to make inspections of property for the purposes of enforcing this Ordinance.

SECTION 3.030 Right of Entry; Inspection Warrants

- A. Right of Entry: The Compliance Officer may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce this Ordinance, or whenever the Compliance Officer has reasonable cause to believe that there exists in any structure or upon any property any condition in violation of this Ordinance.

In the case of entry into areas of property that are plainly enclosed to create privacy and to prevent access by unauthorized persons, the following steps shall be taken:

1. Occupied Property: If any structure on the property is occupied, the Compliance Officer shall first present proper credentials and request voluntary consent to enter and inspect. If voluntary consent is not given, the Compliance Officer may attempt to obtain entry by obtaining an inspection warrant;

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2. Unoccupied Property:

- a. If the property is unoccupied, the Compliance Officer shall contact the person in charge of the property and seek voluntary consent to enter and inspect. If voluntary consent is not given, the Compliance Officer may attempt to obtain entry by obtaining an inspection warrant.
- b. If structures on the property are unoccupied, the Compliance Officer shall first make a reasonable attempt to locate the person in charge of the property and request entry. If entry is refused, the Compliance Officer may attempt to obtain entry by obtaining an inspection warrant.

B. Grounds for Issuance of Inspection Warrants; Affidavit

- 1. Affidavit: An inspection warrant shall be issued only upon cause, supported by written affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the property to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the written affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.
- 2. Cause: Cause shall be deemed to exist if there is probable cause to believe that a condition of nonconformity with this Ordinance exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with this Ordinance.

C. Procedure for Issuance of Inspection Warrant

- 1. Examination: Before issuing an inspection warrant, the Circuit Court Judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.
- 2. Issuance: If the Judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the Judge shall issue the written warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the specific purpose of the inspection or investigation. The written warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the Judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

3. Police Assistance: In issuing a written inspection warrant on unoccupied property, including abatement warrants pursuant to this Ordinance, the Judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the Compliance Officer or representative of the County inspecting the property in any way necessary to complete the inspection.

D. Execution of Inspection Warrants

1. Occupied Property: Except as provided in Subsection 2. of this section, in executing a written inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to a person in charge of the property designated in the warrant and provide the occupant or person in possession of the property with a copy of the warrant upon request.
2. Unoccupied Property: In executing a written inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1 of this section, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.
3. Return: A written inspection warrant must be executed within 10 days of its issue and returned to the Judge by whom it was issued within 10 days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

SECTION 3.040 Interference with Repair, Demolition, or Abatement Prohibited

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

- A. The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this Ordinance;
- B. The abatement of a nuisance pursuant to the provisions of this Ordinance; or
- C. The performance of any necessary act preliminary to or incidental to such work as authorized by this Ordinance or directed pursuant to it.

SECTION 3.050 Enforcing Compliance

To enforce any of the requirements of this Ordinance, the Compliance Officer may gain compliance by:

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- A. Instituting any enforcement action as set out in this Ordinance
- B. Causing appropriate action to be instituted in a court of competent jurisdiction; or
- C. Taking other action as the Compliance Officer in the exercise of the Compliance Officer's discretion deems appropriate.

SECTION 3.060 Separate Violations

Each day's violation of a provision of this Ordinance shall constitute a separate offense.

SECTION 3.070 Citation Procedure

In addition to the abatement procedures set forth in this Ordinance, the County staff person enforcing said ordinance section may issue a citation for a nuisance violation, which will result in the filing of a complaint in the Circuit Court.

SECTION 3.080 Initiation of Enforcement Action

Enforcement action will be initiated pursuant to the policy established by the Wasco County Court in consideration of staff resources and nuisance priorities. While both anonymous and written and signed complaints are accepted, it is up to the discretion of the Compliance Officer as to the level of action given to anonymous complaints.

SECTION 3.090 Compliance Notices and Compliance Orders:

The following shall be applicable to all notices described in this Chapter.

- A. Effective Date of Compliance Notices and Compliance Orders:
All Compliance Notices or Compliance Orders served pursuant to this section shall be considered served as of the date and time of mailing or the date of posting the property, if the property is posted, whichever is later.
- B. Owner of Record Information: An error in the name of the owner or address listed in the county assessment and taxation records for the property shall not render the Compliance Notice or Compliance Order void, but in such case the posted Compliance Notice or Compliance Order, if it was posted on the property, shall be deemed sufficient.
- C. Days: Any days referenced shall be calendar days. In the event the final day falls on a holiday, weekend or other day the applicable County Office is closed, the final day shall be on the next business day following the holiday, weekend or other day the applicable County Office is closed.

- D. Affidavit: Upon completion of each mailing and/or posting, the Compliance Officer will create an affidavit of Compliance Notice or Compliance Order.

SECTION 3.100 Notice of Violation (Step 1)

- A. Initial Response: All conditions defined in Chapter 2 of this Ordinance shall constitute a nuisance. Any person whose duty it is to correct such nuisances and who fails to do so shall be subject to the penalties provided for by this Ordinance.

When the Compliance Officer is made aware of a potential violation, the property is researched to determine ownership, zoning, prior contacts with Planning or Health Departments and related information. The Compliance Officer visits the property where possible to determine if a violation exists. If a violation is determined, it is documented with photos where possible and a 15 day Notice of Violation is sent via First Class Mail and certified mail, return receipt requested to the owner of record or person in charge of the property or served by personal service. Notice to the owner of record or person in charge of the property may also be accomplished by posting notice on the property or personal property.

In cases where the County Health Officer, County Environmental Health Specialist, County Planning Department Director, County Sheriff or Fire Chief, determines that it is necessary to take immediate action in order to protect the public health, safety or welfare, summary abatement of such nuisances pursuant to Section 3.110 is authorized.

- B. The Notice of Violation shall include:

1. The street address or a description sufficient for identification of the property on which the nuisance exists;
2. A statement that one or more violations of this Ordinance exist at the property with a general description of the violation(s) and the section(s) violated;
3. A request that the person in charge of the property contact the Compliance Officer to resolve the violation(s);
4. Specification of a 15 day response period during which the property may be brought into compliance with this Ordinance;
5. A statement that the owner of record or person in charge of the property may extend the deadline for compliance by entering into verbal or written abatement agreement with the Compliance Officer that establishes an approved process and timetable to abate the nuisance;

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6. An outline of the compliance process including but not limited to penalties, charges, liens, abatement and recorded notice of violation in the deed records of the property if voluntary compliance is not achieved; and
 7. Disclose the right of the owner of record or person in charge of the property to appeal the findings of the Notice of Violation and a description of the time limits for requesting an appeal, as described in Section 3.210 Right to Appeal.
- C. Voluntary Compliance: If the owner of record or person in charge of the property responds to the Notice of Violation the timelines can be suspended to allow for compliance. If compliance cannot be achieved immediately a verbal or written abatement plan with a timeline shall be agreed upon by both the owner of record or person in charge of the property and the Compliance Officer. It shall be the discretion of the Compliance Officer whether a verbal or written abatement plan shall be required. If within this timeframe the violation has been abated a compliance letter will be sent and the file will be closed.
- D. Failure to Comply: If following a site visit either after the end of the 15 days identified in the Notice of Violation if the owner of record or person in charge of the property does not contact the Compliance Officer or after the timeline in the abatement agreement, the violation has not been satisfactorily abated, an Order to Correct (Step 2) will be sent to the owner of record or person in charge of the property. However, the Compliance Officer does have the discretion to allow for additional time if they feel the owner of record or person in charge of the property will abate the violation.
- E. Expanded Enforcement Options for Illegal Dwellings and Structures:
Illegal dwellings and structures present special problems for enforcement; because removal of the dwelling or structure may often be the only way to correct the violation. In addition, purchasers of a property containing an illegal dwelling or structure may be initially unaware of an illegal dwelling or structure violation.

As a result, the Compliance Officer is authorized to use the following methods to deal with illegal dwellings and structures:

1. When entering into a written abatement agreement with the owner of record or person in charge of the property, the Compliance Officer will work with the Planning Department to determine a reasonable timeframe and method for legalizing the dwelling or structure where possible.
2. If following the expiration of verbal or written abatement agreement, any illegal dwelling or structure described in the notice of violation has not been removed, made legal, or cause shown, as specified in this Ordinance, why such nuisance should not be removed, or where the terms of a written abatement agreement have been violated, the Compliance Officer, in consultation with the Planning Department Director, may carry out one or more of the following actions:

- a. Record a Notice of Violation with the deed of trust pursuant to Section 3.250.
- b. Assess Administrative Penalties as described in Section 3.130.
- c. Assess double Administrative Penalties if, after receiving an Order to Correct (Step 2), the owner of record or person in charge of the property continues to build an illegal structure or dwelling or adds additional illegal structures or dwellings to the property.
- d. Order the demolition and removal of the illegal structures or dwellings using the process defined in Section 3.160, Order to Abate Nuisances.

SECTION 3.110 Summary Abatement (Step 1)

A. When summary abatement is authorized by this Ordinance, the decision regarding whether or not to use summary abatement shall be at the County Official's discretion. In the case of summary abatement, notice to the owner of record or person in charge of the property prior to abatement is not required. However, following summary abatement, the Official shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a Notice of Summary Abatement shall be mailed to the owner of record or person in charge of the property. Notice to the owner of record or person in charge of the property may also be accomplished by posting notice on the property.

B. The Notice of Summary Abatement shall include:

1. The date the nuisance on the property was abated;
2. The street address or a description sufficient for identification of the property on which the nuisance exists;
3. A statement of the violations of this Ordinance that existed at the property and were summarily abated;
4. Disclosure that penalties, charges and liens will result from the summary abatement subject to Section 3.190, Abatement Costs; and
5. Disclose the right to appeal the findings of the Notice of Summary Abatement, and a description of the time limits for requesting an appeal, as described in Section 3.210, Right to Appeal, to the owner of record or person in charge of the property.

SECTION 3.120 Order to Correct (Step 2)

- A. Order to Correct Site Visit:** If following the site visit described in Section 3.100(D), the owner of record or the person in charge of the property has failed to voluntarily abate the violation, an Order to Correct shall be sent via First Class Mail and certified mail, return receipt requested to the owner of record or person in charge of the property or served by personal service. Notice to the owner of record or person in charge of the property may also be accomplished by posting notice on the property or personal property.
- B. The Order to Correct Shall Include:**
1. The street address or a description sufficient for identification of the property on which the nuisance exists;
 2. A statement that one or more violations of this Ordinance exist at the property with a general description of the violation(s) and the section(s) violated;
 3. A request that the owner of record or person in charge of the property contact the Compliance Officer to resolve the violations;
 4. Specification of a 15 day response period during which the property may be brought into compliance with this Ordinance before penalties, charges, or liens will be assessed;
 5. A statement that the owner of record or person in charge of the property may extend the deadline for compliance by entering into a written abatement agreement with the Compliance Officer that establishes an approved process and timetable to abate the nuisance;
 6. An outline of the compliance process including but not limited to penalties, charges, liens, abatement and recorded notice of violation in the deed records of the property if voluntary compliance is not achieved; and
 7. Disclose the right to appeal the findings of the Order to Correct and a description of the time limits for requesting an appeal, as described in Section 3.210 Right to Appeal, to the owner of record or person in charge of the property.
- C. Voluntary Compliance:** If the owner of record or person in charge of the property responds to the Order to Correct, the timelines can be suspended to allow for compliance. If compliance cannot be achieved immediately a written abatement plan with a timeline shall be agreed upon by both the Disclose the right to appeal the findings of the Notice of Summary Abatement, and a description of the time limits for requesting an appeal, as described in Section 3.210, Right to Appeal, to the owner of record or person in charge of the property and the Compliance Officer. If within

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this timeframe the violation has been abated a compliance letter will be sent and the file will be closed.

- D. Failure to Comply: If either following a site visit after the end of the 15 days identified in the Order to Correct, the owner of record or person in charge of the property does not contact the Compliance Officer, or after the timeline in the written abatement agreement, the violation has not been satisfactorily abated, a Notice of Failure to Comply/Administrative Civil Penalty (Step 3) will be sent to the owner of record or person in charge of the property. However, the Compliance Officer does have the discretion to allow for additional time if they feel the owner of record or person in charge of the property will abate the violation.

SECTION 3.130 Establishment of Administrative Civil Penalties (Step 3)

- A. Administrative Penalty Site Visit: If following the site visit described in Section 3.120(D), the owner of record or the person in charge of the property has failed to voluntarily abate the violation, a Notice of Failure to Comply/Administrative Civil Penalty shall be sent via First Class Mail and certified mail, return receipt requested to the owner of record or person in charge of the property or served by personal service. Notice to the owner of record or person in charge of the property shall also be accomplished by posting the Notice of Failure to Comply/Administrative Civil Penalty on the property or personal property.
- B. The Notice of Failure to Comply/Administrative Civil Penalties Shall Include:
1. The street address or a description sufficient for identification of the property on which the nuisance exists;
 2. A statement that one or more violations of this Ordinance exist at the property with a general description of the violation(s) and the section(s) violated;
 3. A request that the owner of record or person in charge of the property contact the Compliance Officer to resolve the violation(s);
 4. Specification of a 15 day response period during which the property may be brought into compliance with this Ordinance before penalties, County charges, or liens will be assessed;
 5. An outline of the compliance process including but not limited to County charges, penalties, liens, abatement and recorded notice of violation in the deed records of the property if voluntary compliance is not achieved;
 6. A statement of the amount of the penalties and County charges imposed;

7. A statement that abatement is required and that failure to abate the act or condition may result in continued County charges and penalties accruing on a daily basis at the stated amount until proof of completion of abatement is received;
 8. If the penalty is to be imposed pursuant to Subsection E below, a short and plain statement of the basis for concluding that said subsection applies; and
 9. Disclose the right to appeal the findings of the Notice of Failure to Comply/Administrative Penalty and a description of the time limits for requesting an appeal, as described in Section 3.210, Right to Appeal, to the owner of record or person in charge of the property.
- C. Voluntary Compliance: If the owner of record or person in charge of the property responds to the Notice of Failure to Comply/Administrative Penalties and achieves voluntary compliance within 15 days of the notice, a compliance letter will be sent and the file will be closed.
- D. Failure to Comply: If the owner of record or person in charge of the property does not contact the Compliance Officer, or if following an additional site visit no sooner than 15 days after the Notice of Failure to the Comply/Administrative Civil Penalty the violation has not been not satisfactorily abated, administrative civil penalties may be assessed and abatement may occur subject to Sections 3.140 through Section 3.190 and Subsection I below.
- E. Notwithstanding the Notice of Violation or Order to Correct, the Compliance Officer may issue a Notice of Failure to Comply/Administrative Civil Penalty without having issued a Notice of Violation, Order to Correct or making attempts to secure voluntary correction, where the Compliance Officer determines that the failure to comply reasonably appears to:
1. Pose an immediate threat to public health, safety or welfare, or
 2. Be immediately remediable by a person in charge of the property, or
 3. Be the same act or condition that served as the basis for a previous order to comply, or
 4. Be done deliberately by a responsible person who had knowledge that the actions in question would constitute a failure to comply.
- F. Utilizing the procedure set forth in Section 3.140, Determination of Amount of Penalty, the Compliance Officer shall determine the penalty amount that may be imposed for a particular violation. No monetary penalty imposed under this section shall exceed \$2,000, per violation, per day. Except for illegal structures and illegal

dwellings, the maximum accrued penalty plus all County Charges shall not exceed \$10,000. Unless they are recorded as a lien, reach the penalty cap, or are otherwise addressed in an agreement written into the abatement plan, unpaid penalties will double after 6 months and again after 1 year from the date they are originally assessed at which time the County may record the penalty as a lien.

- G. Any person who pays the monetary penalty within 15 days of when it was ordered shall only be required to pay 90 percent thereof. Unless an agreement or payment schedule is written into the abatement plan, failure to pay a penalty imposed hereunder within 15 days after the penalty becomes final as provided in Subsection D above shall constitute a failure to comply with this section.

Each day after the initial 15 day period for payment that the penalty is not paid and the violation or nuisance remains active on the property, shall constitute a separate failure to comply. The Compliance Officer is also authorized to collect the penalty by any administrative or judicial action or proceeding authorized by Subsection K below, other provisions of this Ordinance or state statutes, and may enforce delinquent liens or assessments pursuant to ORS 223.510.

- H. The administrative civil penalty authorized by this section shall be in addition to:

1. County charges incurred by the County in processing, remediation, cleanup or abatement, and
 2. Any other assessments, fees or actions authorized by law.
- I. Hearings Officer Order: If the owner of record or person in charge of the property does not file a written appeal within 15 days of the date when the Notice of Failure to Comply/Administrative Civil Penalty is served or mailed, the Compliance Officer shall forward the Notice of Failure to Comply/Administrative Civil Penalty along with a statement of the assessed penalty plus fees, and County charges to the Hearings Officer for review and issuance of a written order. However, the Compliance Officer does have the discretion to allow for additional time if they feel the owner of record or person in charge of the property will abate the violation.

If the Hearings Officer determine(s) the findings, penalties, fees, County charges, or other information were lawful, the Hearings Officer shall issue a written order affirming the findings, penalties, fees, County charges or other information in the Notice of Failure to Comply/Administrative Civil Penalty and the owner of record or person in charge of the property shall be responsible for meeting the requirements of the Notice of Failure to Comply/Administrative Civil Penalty and paying all penalties, fees, and County charges on or before a date set by the Hearings Officer.

If the Hearings Officer determine(s) any part of the findings, penalties, fees, County charges or other information were not lawful, the owner of record or person in

charge of the property shall be responsible for meeting the requirements of the Notice of Failure to Comply/Administrative Civil Penalty and paying all penalties, fees, and County charges that were found to be lawful on or before a date set by the Hearings Officer.

A copy of the Hearings Officer Order shall be sent to the owner of record or person in charge of the property by certified mail

- J. Enforcement Of Hearings Officer Order: Penalties, fees and county Charges are payable on the effective date of the order and are a debt owed to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If penalties, fees, and County charges are not paid within 60 days after payment is ordered, the County may file and record the order in the County Clerk Lien Record. The cost of filing and releasing the lien shall be added to the amount of the lien and the responsibility of the owner of record or person in charge of the property.

The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil penalties, fees, or County charges imposed by such order.

The Compliance Officer shall notify the owner of record or person in charge of the property that the penalty and associated County charges have been assessed against the real property upon which the failure to comply occurred, and has been entered in the County Clerk's Lien Record. The lien may be enforced in the same manner as a judgment, or as a lien for street improvements, and shall bear interest at the rate prescribed in ORS 82.010.

- K. In addition to enforcement mechanisms authorized elsewhere in this Ordinance, failure to pay an administrative civil penalty imposed pursuant to this Section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or licenses.

SECTION 3.140 Determination of Amount of Administrative Civil Penalty (Step 3)

The Compliance Officer shall determine the amount of the administrative civil penalty to be assessed under this Ordinance in accordance with the following schedule:

- A. Solid Waste Nuisances: \$280 per day, per violation
B. Vehicular Nuisances: \$100 per day, per vehicle

- C. Land Use and Zoning Nuisances, except illegal dwellings or structures: \$280 per day, per violation
- D. LUDO Site Violations: \$280 per day, per violation
- E. Illegal dwellings or structures, permanent: \$2,000 per day, per violation. Penalty ceases to accrue when it reaches the assessed value of the dwelling or structure. Penalty is forgiven when the violation is addressed (removed, permitted, or converted to an allowed use) by owner of record or person in charge of the property.
- F. Illegal dwellings or structures, temporary: \$2,000 per day, per violation. Penalty ceases to accrue when it reaches the assessed value of the dwelling or structure. Penalty is forgiven when the violation is addressed (removed, permitted, or converted to an allowed use) by owner of record or person in charge of the property.
- G. For violations listed in subsections A through D above that are the second similar violation within 2 years from the date the first similar violation was resolved, the calculated penalty will be doubled.

SECTION 3.150 Abatement of Nuisance as Last Resort (Step 4)

Except in the case of summary abatement, abatement of a nuisance by the County shall only proceed if the owner of record or person in charge of the property has not satisfactorily abated the violation within **15 days** of the Notice of Failure to Comply/Administrative Civil Penalties.

Abatement of a nuisance by the County will only be initiated if all other remedies to correct the violation have failed.

SECTION 3.160 Order to Abate Nuisances (Step 4)

If, following **15 days** after the Notice of Failure to Comply/Administrative Civil Penalties, any nuisance (illegal dwellings and structures are subject to Section 3.100 (E)) described in the Notice has not been removed and abated, or cause shown, as specified in this Ordinance, why such nuisance should not be removed or abated, or where summary abatement is authorized, or where the terms of a written abatement agreement have been violated, in addition to the imposition of Administrative Civil Penalties, the Compliance Officer may cause the nuisance to be removed and abated, including disposal in an approved manner by:

- A. Causing an Order to Abate Nuisance to be posted on the premises where the nuisance exists directing the removal of such nuisance.
- B. At the time of posting, the Compliance Officer shall cause a copy of such notice to be forwarded via First Class Mail and certified mail, return receipt requested to the owner of record or person in charge of the property or served by personal service.

C. The Order to Abate Nuisances Shall Include:

The Notice shall be entitled "Order to Abate Nuisance" and shall contain:

1. The street address or a description sufficient for identification of the property on which the nuisance exists;
2. A statement that one or more violations of this Ordinance exist at the property with a general description of the violation(s) and the section(s) violated;
3. An order to abate the nuisance within 15 days from the date of the notice;
4. A statement that unless the nuisance is removed, the County may abate the nuisance and the cost of abatement, penalties, fees, and any County charges, shall be charged to the owner of record or person in charge of the property and be attached to the property as a lien; and
5. Disclose the right to appeal the findings of the Order to Abate Nuisance and a description of the time limits for requesting an appeal, as described in Section 3.210 Right to Appeal, to the owner of record or person in charge of the property

D. Failure To Comply: If following 15 days after the Order to Abate Nuisance, the violation has not been not satisfactorily abated, the violation will be abated pursuant to Section 3.170 – Section 3.190 and Subsection E below.

E. Hearings Officer Order: If the owner of record or person in charge of the property does not file a written appeal within 15 days of the date when the Order to Abate Nuisance is served or mailed, the Compliance Officer shall forward the Order to Abate Nuisance along with a statement of the estimated abatement cost plus any penalties, fees, and County charges to the Hearings Officer for review and issuance of a written order. However, the Compliance Officer does have the discretion to allow for additional time if they feel the owner of record or person in charge of the property will abate the violation.

If the Hearings Officer affirms the Order to Abate Nuisance, the Hearings Officer shall issue a written order affirming the findings, abatement costs, penalties, fees, and County charges or other information found in the Order to Abate Nuisance, the Compliance Officer will proceed with abatement subject to Section 3.170 – Section 3.190 and the owner of record or person in charge of the property shall be responsible for paying all abatement costs, penalties, fees, and County charges on or before the date set by the Hearings Officer.

A copy of the Hearings Officer Order shall be sent to the owner of record or person in charge of the property by certified mail

F. Enforcement Of Hearings Officer Order: Abatement costs, penalties, fees and county Charges are payable on the effective date of the order and are a debt owed

to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If abatement costs, penalties, fees, and County charges are not paid within 60 days after payment is ordered, the County may file and record the order in the County Clerk Lien Record. The cost of filing and releasing the lien shall be added to the amount of the lien and the responsibility of the owner of record or person in charge of the property.

The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil penalties, fees, or County charges imposed by such order.

The Compliance Officer shall notify the owner of record or person in charge of the property that the abatement costs, penalties, fees, and associated County charges have been assessed against the real property upon which the failure to comply occurred, and has been entered in the County Clerk's Lien Record. The lien may be enforced in the same manner as a judgment, or as a lien for street improvements, and shall bear interest at the rate prescribed in ORS 82.010.

SECTION 3.170 Abatement of Vehicular Nuisances (Step 4)

- A. Order to Abate Vehicular Nuisance: If, following 15 days after the Notice of Failure to Comply/Administrative Civil Penalties, any vehicle which qualifies as a nuisance under Chapter 2 but is not subject to Summary Abatement, the Compliance Officer shall affix an Order to Abate Vehicular Nuisance notice to the abandoned vehicle. In the case of an abandoned vehicle on private property, permission to enter the property to affix the notice to the vehicle shall be obtained from the owner of record, person in charge of the property or shall be authorized by Section 3.030, Right of Entry; Inspection Warrants.

The Order to Abate Vehicular Nuisances Shall Include the following information:

1. That the vehicle will be subject to being impounded by the County if the vehicle is not removed from the private property or public property within 15 days of the date of the notice. If the vehicle is to remain on private property, it must be moved and stored within an enclosed structure or covered by a device specifically designed to protect the vehicle from the elements.
2. The section of this Ordinance which has been violated and under which the vehicle will be removed.
3. The place where the vehicle will be impounded and the telephone number to find out information about where the vehicle will be stored.

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4. The vehicle, if impounded, will be subject to towing and storage charges, County charges, and a lien will be attached to the vehicle and its contents.
5. The vehicle will be sold to satisfy the costs of towing, storage, and County charges if these costs are not paid by the owner.
6. Disclose the owner's right to appeal the findings of the Order to Abate Vehicular Nuisance and a description of the time limits for requesting an appeal, as described in Section 3.210 Right to Appeal.

B. Abatement Proceedings: In the event the person responsible does not voluntarily comply by removing the vehicle from the private property or the public right-of-way, or by storing the vehicle within an enclosed structure, or underneath an approved coverage device, within the specified time period, the Compliance Officer shall institute abatement proceedings to have the abandoned vehicle towed from the private property or the public right-of-way and impounded. If the vehicle is on private property the vehicle shall be abated pursuant to Section 3.180, Nuisance Abatement Warrants.

The Compliance Officer shall mail a notice to the registered owner of the vehicle and to any lessors or security interest holders as shown in the state Motor Vehicle Department records, and to the person responsible for creating the nuisance, if that person is not the registered owner of the vehicle and the County has been able to identify that person, that the vehicle has been impounded. The notice shall be sent by regular mail and by certified mail, return receipt requested, and be mailed within 48 hours of the impoundment.

The Impoundment Notice Shall Include the following information:

1. The location where the vehicle will be stored.
2. That the vehicle and its contents are subject to a lien for the payment of storage and towing charges and an administrative fee of \$100, and that the vehicle and its contents will be sold if those charges and administrative fee are not paid.
3. That the vehicle will not be released until the owner provides proof that the vehicle is currently licensed and registered, that the nuisance conditions will not be resumed, and that all towing and storage fees and the \$100 administrative fee have been paid, and the County has authorized the release of the vehicle in writing.
4. Disclose the owner's right to request an appeal hearing to contest the validity of the impoundment or the liability for towing charges and the administrative fee. The Request for an appeal shall be made as described in Section 3.210, Right to Appeal.

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- C. Disposal of abandoned vehicles which have been impounded under this section shall be carried out in accordance with the applicable provisions of Chapter 819 of the Oregon Revised Statutes. The County shall be entitled to recover the costs of the nuisance abatement, including the \$100 administrative fee, in an appropriate action at law.
- D. Removal of an abandoned vehicle from one private property to another private property, or removal of an abandoned vehicle from private property onto a public right-of-way, or removal of an abandoned vehicle from one location to another location on a public right-of-way, after a notice has been affixed to the vehicle under subsection (A) of this section, shall not prevent the County from proceeding with the process to have the vehicle towed from a private property or the public right-of-way and impounded under the provisions of Subsection (B) of this section, above.

SECTION 3.180 Nuisance Abatement Warrants (Step 4)

The Compliance Officer may request any Circuit Court Judge to issue a nuisance abatement warrant whenever entry onto private property is necessary to remove and abate any nuisance.

A. Grounds for Issuance of Nuisance Abatement Warrants:

- 1. Affidavit: A nuisance abatement warrant shall be issued only upon probable cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal and abatement of the nuisance, the building or property to be entered, the basis upon which probable cause exists to remove or abate the nuisance, including the existence of prior violations, and a statement of the general types and estimated quantity of the items to be removed or conditions abated.
- 2. Probable Cause: Probable cause shall be deemed to exist if it is believed that a nuisance violation exists, as defined in this Ordinance, with respect to the designated property.

B. Procedure for Issuance of a Nuisance Abatement Warrant:

- 1. Examination: Before issuing a nuisance abatement warrant, the Judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
- 2. Issuance: If the Judge is satisfied that probable cause for the removal and abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the Judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the

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items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the Judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

3. Police Assistance: In issuing a nuisance abatement warrant, the Judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the Compliance Officer in any way necessary to enter the property and remove and abate the nuisance.

C. Execution of Nuisance Abatement Warrants

1. Occupied Property: Except as provided in subsection 2, below, of this section, in executing a nuisance abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and to show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property: In executing a nuisance abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1 of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the nuisance abatement warrant shall be conspicuously posted on the property.
3. Return: A nuisance abatement warrant must be executed within 10 days of its issue and returned to the Judge by whom it was issued within 10 days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

- D. Disposal of Nuisance Items Removed: The Compliance Officer may cause the nuisance items that were removed, pursuant to the nuisance abatement warrant, to be disposed of in an approved manner whenever the Compliance Officer, in the Compliance Officer's sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making the above determination, the Compliance Officer may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances, and all other reasonable and necessary expenses of holding the sale.

SECTION 3.190 Abatement Cost (Step 4)

A. Responsibility for Costs

If more than one (1) person is responsible for the creation or continuation of a nuisance, they shall be jointly and severally liable for abating the nuisance or for all costs incurred by the County in abating the nuisance.

An accurate record of the abatement costs shall be kept and shall include a surcharge of 25% of the cost of the abatement for administrative overhead.

A Notice of Abatement Cost shall be forwarded via First Class Mail and certified mail, return receipt requested to the owner of record or person in charge of the property or served by personal service, to the owner of record or person in charge of the property. The notice shall contain:

1. The street address or a description sufficient for identification of the property on which the nuisance exists;
2. A statement that one or more violations of this Ordinance existed at the property with a general description of the violation(s) and the section(s) violated;
3. The date the violation was abated and actions taken to abate the violation;
4. The total cost, including the administrative overhead, of the abatement;
5. A statement that the cost as indicated will become a lien against the property unless paid within 60 days.
6. Disclose the right to appeal the amount of abatement costs and a description of the time limits for requesting an appeal, as described in Section 3.210, Right to Appeal, to the owner of record or person in charge of the property

SECTION 3.200 Distribution of Administrative Penalties (Step 4)

All Administrative Civil Penalties, payments for abatement costs, fees, and other County charges collected under this Ordinance shall be deposited in the Wasco County General Fund.

SECTION 3.210 Right to Appeal

- A.** Whenever an owner of record or person in charge of the property has been given any Compliance Notice or Compliance Order pursuant to this Ordinance and the owner of record or person in charge of the property believes the findings, penalties, fees, County charges, or other information in the Compliance Notice or Compliance

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Order were in error, the owner of record or person in charge of the property may appeal.

If an appeal hearing is sought, the owner of record or person in charge of the property shall submit a written request to the Compliance Officer within 15 days of the date of the Compliance Notice or Compliance Order.

- B.** Appeals will be heard by a Hearings Officer appointed by the County Court. The person requesting an appeal shall be given the opportunity to present evidence to the Hearings Officer. Following the appeal hearing, the Hearings Officer shall issue a written determination.

If the person appealing the Compliance Notice or Compliance Order is unsatisfied with the result of the appeal hearing, they may appeal the decision subject to Section 3.230. The request for an appeal shall be submitted in writing to the Compliance Officer within 15 days of the issuance of the written determination notice.

- C.** The Wasco County Code Compliance and Nuisance Abatement Ordinance Appeals Hearing Procedure (Section 3.260 Attachment A) shall govern any requested appeal hearing.

- D.** The County shall have the burden of proving by a preponderance of the evidence the findings, abatement costs, penalties, fees, County charges or other information in the Compliance Notice or Compliance Order were lawful pursuant to this ordinance.

If the Hearings Officer determine(s) the findings, abatement costs, penalties, fees, County charges, or other information were lawful, the Hearings Officer shall enter a written order affirming the findings, abatement costs, penalties, fees, County charges or other information in the Compliance Notice or Compliance Order and the owner of record or person in charge of the property shall be responsible for meeting the requirements of the Compliance Notice or Compliance Order and paying all abatement costs, penalties, fees, and County charges.

If the Hearings Officer determine(s) the findings, abatement costs, penalties, fees, County charges or other information were not lawful, the owner of record or person in charge of the property shall not be responsible for meeting the requirements of the Compliance Notice or Compliance Order. If there is a lien, storage costs or other payment for abatement costs, those shall be the responsibility of the County.

The Hearings Officer may modify the amount of the civil penalty based on the record and testimony received at the appeal hearing and subject to Section 3.220(C).

SECTION 3.220 Appeal Fees and Deposits

- A. To help defray the costs of processing the appeal, all appeals shall be accompanied by an appeal fee of \$100 established by the County Court, as well as a deposit in the amount of any monetary penalty plus all County charges accrued to the date the deposit is received. The appeal shall not be heard unless these are paid prior to the end of the 15 days indicated in the Compliance Notice or Compliance Order.
- B. Filing of an appeal shall cause the penalty to cease accruing on a daily basis as of the date the appeal is filed with the Code Compliance Officer until 7 days after the date of the appeal hearing decision.
- C. In the event that the appeal is upheld or partially upheld by the Hearings Officer:
- If upheld completely the appeal fee and the deposit shall be refunded
 - If upheld partially: up to half of the appeal fee and only that part of the deposit not used to cover remaining¹ accrued penalties and County charges shall be refunded.
- D. In the event the appeal is not upheld; the Hearings Officer shall issue a written order affirming the findings, abatement costs, penalties, fees and County charges or other information in the Compliance Notice or Compliance Order, and the abatement costs, penalties, fees, plus all County charges shall immediately become due and payable, and the deposit submitted with the appeal request will be applied toward payment of those abatement costs, penalties, fees, and County charges.
- E. The penalty shall continue to accrue on any remaining¹ violations or nuisances beginning 7 days after the date of the Appeal Hearing decision until such time as the owner of record or person in charge of the property submits proof to the Compliance Officer of having abated the act or condition constituting the failure to comply.
- F. Enforcement Of Hearings Officer Order: Abatement costs, penalties, fees and county Charges are payable on the effective date of the order and are a debt owed to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If penalties, fees, and County charges are not paid within 60 days after payment is ordered, the County may file and record the order in the County Clerk Lien Record. The cost of filing and releasing the lien shall be added to the amount of the lien and the responsibility of the owner of record or person in charge of the property.

The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil penalties, fees, or County charges imposed by such order.

¹ Includes all appealed violations and/or nuisances not upheld in the hearing

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G. Nothing in this Section shall limit the authority of the Compliance Officer to initiate a proceeding under this Ordinance.

SECTION 3.230 Further Appeals

All appeals of the Hearings Officer determination pursuant to Section 3.210, Right to Appeal, shall be by writ of review as authorized by ORS 34.010 - 34.100.

SECTION 3.240 Restricting Issuance of Development Permits

It is the County's policy, to the extent authorized by law, not to issue permits or approvals, nor to renew or extend permits and approvals, for development on any property on which there already exist uncorrected violations. This restriction shall continue until such violations are corrected.

It is also the County's policy not to issue permits or approvals, nor to renew or extend permits or approvals, for "accessory" structures, such as garages and outbuildings, on vacant property, on property on which there does not already exist a permitted primary residential or commercial use, and on property for which a permit or approval for a "primary" use is not sought simultaneously with the "accessory" use permit or approval. This restriction shall continue until the primary permitted use is established or a permit for it is sought.

If review of Wasco County Planning Department records and/or consultation with Code Compliance staff reveals the existence of unresolved code violations on the subject property, Planning staff shall not accept applications for requested permit(s) or approvals or renewals or extensions thereof, nor shall staff issue permits or approvals or renewals or extensions thereof. Instead, staff shall promptly consult with the Compliance Officer to determine whether the permit or approval, or the renewal or extension thereof, is being sought in order to correct the existing code violation(s).

If the requested permit or approval, or renewal or extension thereof, is determined to be required for code compliance, the application shall be accepted, or the permit or approval shall be issued if all necessary conditions have been met. Planning Department staff shall refer persons not allowed to apply for permits or approvals, or to whom issuance of permits or approvals or renewals or extensions thereof has been denied under this subparagraph, to the Compliance Officer to discuss required corrective action.

SECTION 3.250 Recorded Notice of Violation

If the Compliance Officer finds violations of this Ordinance on any property, the Compliance Officer may record with the County Clerk information regarding County code violations and the potential for liens to be placed on the property as a result of these violations. The document will notify a prospective buyer that the property is

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tainted and can not legally be developed. When the violation is cured a Notice of Compliance will be recorded.

SECTION 3.260 Attachments

**ATTACHMENT A -
WASCO COUNTY CODE COMPLIANCE AND NUISANCE ABATEMENT ORDINANCE
APPEALS HEARING PROCEDURE**

A. Open the hearing (read the following)

1. The name of the appellant;
2. The location of nuisance;
3. The nature of the nuisance as determined by staff; and
4. The nature of the appeal.

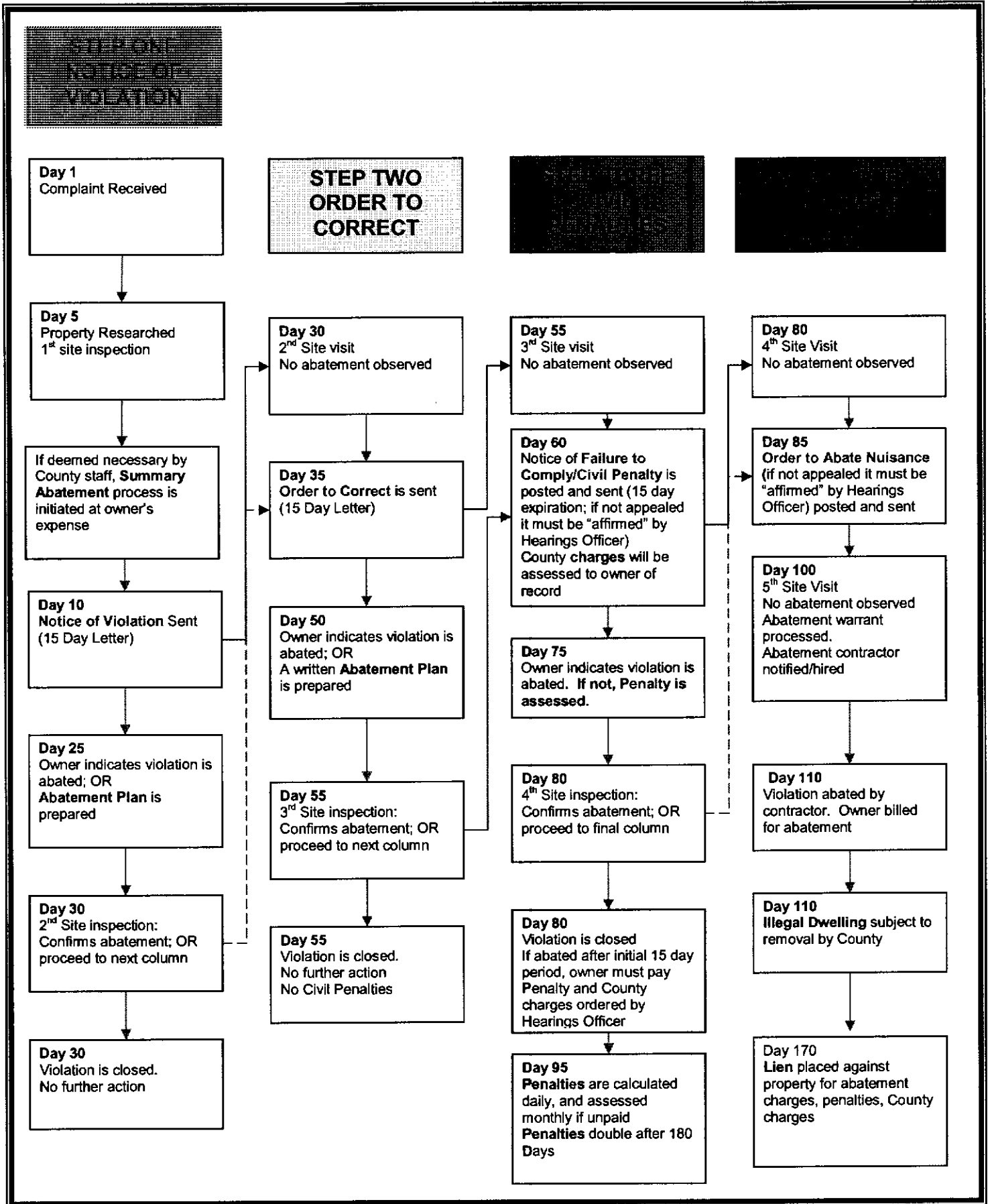
B. Rules of Evidence:

1. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence;
2. Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs; and
3. Testimony and evidence must be directed toward the criteria applicable to the subject hearing.

C. Disclosure of Interest or Ex Parte Contact:

1. The Hearings Officers must disclose any personal or financial interest in the matter. If the personal or financial interest could affect the decision, the Hearings Officer(s) must disqualify themself;
2. The Hearings Officer(s) must report any significant ex parte or pre-hearing contacts;
3. Any member of the audience may to challenge the right of the Hearings Officer(s) to hear the matter; and
4. Any member of the audience may question the jurisdiction of the Hearings Officer(s) to act on behalf of Wasco County in the matter.

- D. Staff presents their report.
- E. The Appellant or their Representative is allowed to testify (required to sign name and address).
- F. Any person may testify for the Appellant (required to sign name and address).
- G. Any person may testify against the Appellant (required to sign name and address).
- H. The Appellant or their Representative may rebut any testimony against them.
- I. The public hearing will close and the Hearings Officer(s) will deliberate. The Hearings Officer(s) may ask additional questions of staff or the Appellant during deliberation.
- J. Decision
 - 1. The Hearings Officer(s) will make a decision; or
 - 2. The Hearings Officer(s) will move, second, discuss and vote to make a decision. A majority vote is required to overturn the staff's determination.



NOTE: ALL DATES ARE APPROXIMATE AND USED FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL TIME FRAMES ARE CASE SPECIFIC AND MAY VARY.

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