



IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE WASCO COUNTY PLANNING DEPARTMENT'S REQUEST TO ADOPT REVISIONS TO THE WASCO COUNTY CODE COMPLIANCE AND NUISANCE ABATEMENT ORDINANCE, HEREAFTER KNOWN AS THE WASCO COUNTY CODE COMPLIANCE ORDINANCE

ORDINANCE # 24-006

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Board of Commissioners being present; and

WHEREAS, the Wasco County Planning Division has requested adoption of revisions to the unified nuisance and abatement ordinance; and

WHEREAS, the revisions include revised enforcement and abatement procedures, new definitions, and improved format.

WHEREAS, that on December 4, 2024 at the hour of 9:30 AM the Wasco County Board of Commissioners met to conduct the first of two legally notified public hearings on the above matter. The Board of County Commissioners reviewed recommendations by staff and received testimony from the public. The Board of County Commissioners tentatively approved the revisions; and

WHEREAS, that on December 18, 2024 at the hour of 9:30 AM the Wasco County Board of Commissioners met to conduct the second of two legally notified public hearings on the above matter. The Board of County Commissioners reviewed staff's presentation, and received testimony from the public. The Board of County Commissioners, by a vote of 3 to 3, approved/denied the revisions and conducted the second reading; and

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. That the request by the Wasco County Planning Division for revisions to the Wasco County Code Compliance and Nuisance Abatement Ordinance, hereafter known as the Wasco County Code Compliance Ordinance are hereby approved; and

2. Pursuant to Oregon Revised Statute 203.045, this ordinance shall take effect on the 90th day after the date of its adoption.

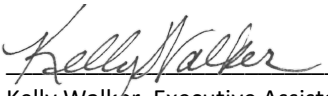
DATED this 18th day of December 2024.

APPROVED AS TO FORM:



Kristen Campbell, County Counsel

ATTEST:



Kelly Walker, Executive Assistant

WASCO COUNTY BOARD OF COMMISSIONERS:



Steve D. Kramer, Commission Chair



Scott Hege, Vice-Chair



Phil Brady, County Commissioner

WASCO COUNTY CODE COMPLIANCE ORDINANCE

ADOPTED

July 14, 2009

AMENDED

April 5, 2011

REVISED

March 18, 2025

PREPARED BY THE

Wasco County Planning Division

SUMMARY TABLE OF CONTENTS

<u>CHAPTER</u>		<u>PAGE</u>
1	INTRODUCTORY PROVISIONS	1-1
2	NUISANCE AND LAND USE VIOLATIONS	2-1
3	ADMINISTRATIVE ENFORCEMENT	3-1
4	ABATEMENT	4-1

CHAPTER 1 - INTRODUCTORY PROVISIONS

Section 1.005 - Authority	1
Section 1.010 - Title	2
Section 1.020 - Purpose	2
Section 1.030 - Severability.....	2
Section 1.040 - Repeal	2
Section 1.050 - Effective Date.....	3
Section 1.060 - Saving Clause	3
Section 1.070 - Interpretation and Scope.....	3
Section 1.080 - Compliance Required.....	3
Section 1.085 - Private Right of Action / Civil Penalty	4
Section 1.090 - Failure to Comply	4
Section 1.100 - Ordinance Revision	4
Section 1.110 - Definitions.....	4

Section 1.005 - Authority

This Ordinance is enacted pursuant to the provisions of Oregon Revised Statutes Chapters 92, 197, 203, 215, 433, 449, 459, 468, and Public Law 99-663. It also adopts by reference the National Scenic Area Land Use and Development Ordinance, the Wasco County Land Use and Development Ordinance, the Wasco County Comprehensive Plan and the Columbia River Gorge National Scenic Area Management Plan.

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.

The Board of Commissioners is hereby authorized to administer and enforce all of the provisions of this Ordinance. The Board of Commissioners 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 Code 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 1.010 - Title

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

Section 1.020 - Purpose

The purposes of this Ordinance are: To promote the health, safety, and general welfare of Wasco County citizens; to promote safety from fire and natural disaster; 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 violations;
- B. Establishing and enforcing minimum standards regulating development without land use review and approval, non-compliance with approval, continuation of use after expiration of approval, illegal uses, dwellings and structures, the accumulation of junk, solid waste, tires, and inoperable or abandoned vehicles, or other violations 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 violations of this Ordinance that may require enforcement action and abatement.

All in accordance with the Comprehensive Plan for Wasco County and the Management Plan for the Columbia River Gorge National Scenic Area.

Section 1.030 - 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 1.040 - Repeal

The following ordinances, together with all amendments thereto are hereby superceded or repealed except as provided under Section 1.060 below:

- 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 1.050 - Effective Date

This Ordinance shall become effective on the 90th day after the date of its adoption. Amendments hereto, unless otherwise specified, shall become effective when filed with the County Clerk.

Section 1.060 - 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 1.070 - Interpretation and Scope

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, State Law or State Administration regulations, then the more restrictive shall govern.

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 (Solid Waste as defined in Section 1.110 Definitions) 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 1.080 - Compliance Required

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.

No structure or premises in Wasco County shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this Ordinance. In addition, no person shall cause or permit such a condition to exist that constitutes a violation as defined by this Ordinance.

The Director, the Director's designee or other Approving Authority shall not approve a development or use of land that has been previously divided or otherwise developed in violation of this Ordinance, regardless of whether the applicant created the violation, unless the violation can be rectified as part of the development proposal.

Section 1.085 - 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 violation 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 violation. No action shall be maintained against the County for failure to abate a violation under this ordinance.

Section 1.090 - Failure to Comply

- A. A person or legal entity that fails to comply with any provision of this Ordinance shall be subject to administrative enforcement pursuant to Chapter 3.
- B. The imposition of a civil fine, monetary penalty, or administrative monetary penalty does not relieve a responsible person of the duty to abate the violation.
- C. Any failure of the County to enforce a provision of this Ordinance does not constitute permission, acquiescence or a right to continue a use or condition that constitutes a violation.
- D. Each day that a nuisance or violation continues to exist constitutes a separate violation and a separate penalty may be assessed for each day the violation continues.
- E. Violations of this Ordinance that are the second similar violation within the two (2) years preceding the date of the first similar violation, may be subject to additional penalties and increased enforcement action under the provisions of this Ordinance.

Section 1.100 - Ordinance Revision

County Legal Counsel may at any time direct such changes regarding currently maintained copies of this Ordinance and amendments as the legislative counsel is authorized to perform regarding acts of the Legislature, pursuant to ORS 173.160; provided, that such editorial revision be directed by written memorandum filed with the County Clerk, but subject to disapproval by the Board at its next regular meeting thereafter.

Section 1.110 - 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, administrative costs, costs for abatement 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.

Board of Commissioners - Wasco County Board of Commissioners

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 Board of Commissioners 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, Order to Correct, Notice of Failure to Comply, Notice of Abatement Cost, Notice of Summary Abatement, all forms of Order to Abate, and all Hearings Officer Orders.

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

County - The County of Wasco, Oregon.

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

Development - 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 does not reasonably appear to be legally operated or capable of being self-propelled upon the public streets because of missing major components such as an engine, wheels, windshield, or other obvious damage or missing equipment.

Dwelling - Any structure, permanently affixed or temporarily sited or parked, containing dwelling units, including all dwelling classifications covered by the LUDO or NSA LUDO, that are occupied full time, periodically, or are unoccupied.

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.

Firewood - Wood that is used as fuel for heat.

Firewood, Useable - Wood that constitutes more wood than rot and is cut to lengths that will fit in an approved fireplace or wood stove.

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 North Central Public Health District Health Unit Officer or Environmental Health Officer.

Hearings Officer - Individual or group appointed by the Board of Commissioners 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.

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 useless, unwanted, or discarded material. The fact that materials, which would otherwise come within the definition of Junk, may from time-to-time have value and thus could be utilized, shall not remove them from the definition. For purposes of this definition, 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.

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.

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 orders the owner to correct the declared violation or experience administrative civil penalties and/or abatement of the violation by Wasco County.

Owner of Record - A person having any legal or equitable interest in property, including but not limited to, a purchaser, lienholder or holder of any security interest in such property whose interest is recorded in the public records provided for by Oregon Statutes where the owner's interest must be recorded to perfect a lien or security interest or provide constructive notice of the owner's interest.

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.

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

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;
- 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 consecutive 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 - Means the water-carried human or animal wastes, including kitchen, bath, and laundry waste from residences, buildings, industrial establishments or other places, together with such groundwater infiltration, surface waters or industrial waste as may be present. The admixture with sewage of wastes or industrial wastes shall also be considered "sewage" within the meaning defined in ORS 468.

Shall - Action is mandatory.

Should - Action is encouraged.

Solid Waste – Includes all putrescible and non-putrescible 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 fact that materials, which would otherwise come within the definition of Solid Waste, may from time-to-time have value and thus could be utilized, shall not remove them from the definition. 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.

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.

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.

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, Illegal - 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.

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.

Warrant, Abatement - 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.

Warrant, Inspection - 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.

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

CHAPTER 2 - NUISANCE AND LAND USE VIOLATIONS

Section 2.005 - Purpose	1
Section 2.010 - Exemptions	1
Section 2.015 - Designation of Nuisances.....	2
Section 2.020 - Unenumerated Nuisances	2
Section 2.025 - Solid Waste and Junk Violations	2
Section 2.030 - Vehicular Nuisances.....	4
Section 2.035 - RESERVED.....	6
Section 2.040 - Land Use and Zoning Violations.....	6
Section 2.050 - Illegal Uses	7
Section 2.060 - National Scenic Area (NSA) Violations	8

Section 2.005 - Purpose

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

Section 2.010 - 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;
- 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. Maintained compost areas with size and content consistent with home use.

- F. Composting necessary for the operation of farms, customarily utilized in conjunction with farm use as defined under “accepted farm practice” in the LUDO.

Section 2.015 - Designation of Nuisances

- A. It shall be unlawful for any owner of record or person in charge of the property to maintain or allow to exist, the following things, practice, or conditions on the property, which are declared to be a nuisance and hereby designated as violations.
- B. The declaration of the nuisances herein shall not be construed to limit the power of the Code Compliance Officer, or any employee authorized by the County to enforce this Ordinance, to investigate any other thing, practice, or condition appearing to be a nuisance or violation which is a danger to public health and safety and to declare the thing, practice or condition a nuisance when the facts appear that a thing, practice or condition exists which is the cause of a threat to public health and safety. Such nuisance shall become subject to the provisions of this Ordinance upon the said declaration of the Board of County Commissioners.

Section 2.020 - Unenumerated Nuisances

- A. The acts, conditions or objects specifically enumerated and defined in this Ordinance are declared public nuisances and may be abated by the procedures set forth in this Ordinance.
- B. In addition to the nuisances specifically enumerated in this Ordinance, every other thing, substance or act that is determined by the Board of County Commissioners 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 by any procedures set forth in this Ordinance.

Section 2.025 - Solid Waste and Junk Violations

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

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 junk, 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 practices are exempt from this section.

3. Accumulations of vehicle parts;
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;
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 North Central Public Health District 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 2.030 - 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.

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 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 2.035 - RESERVED

Section 2.040 - Land Use and Zoning Violations

- A. Development without Land Use Review & Approval: 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 Division or built inconsistently with the application as permitted in the 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.
 - 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.
- D. Non-Compliance with Conditional Use Permit:

Non-compliance with any condition placed on a conditional use permit shall be grounds for revocation of the permit. Revocation of a conditional use permit shall be considered a land use action and will follow procedures pursuant to LUDO and NSA LUDO Section 5.040.
- E. 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.

F. 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 2.050 - 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 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.

F. Other uses:

Any other use of land that occurs in Wasco County that the Compliance Officer or Board of Commissioners determine is in conflict with LUDO or NSA LUDO requirements.

Section 2.060 - National Scenic Area (NSA) Violations

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 or 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 or 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.

CHAPTER 3 - ADMINISTRATIVE ENFORCEMENT

Section 3.005 - Purpose	1
Section 3.010 - Enforcement Authority	2
Section 3.015 - Inspection Warrants	2
Section 3.020 - Voluntary Compliance.....	4
Section 3.025 - Authority of Hearings Officer	4
Section 3.030 - Initiating Enforcement Action.....	5
Section 3.040 - Notice of Violation	5
Section 3.050 - Order to Correct.....	6
Section 3.060 - Notice of Failure to Comply	7
Section 3.065 - Order of the Hearings Officer	8
Section 3.070 - Authority to Prosecute Enforcement Proceedings.....	8
Section 3.080 - Citation Procedure	9
Section 3.085 - Initiating an Enforcement Proceeding	11
Section 3.090 - Hearings	11
Section 3.095 - Legal	12
Section 3.100 - Civil Penalties	13
Section 3.105 - Monetary Penalties.....	14
Section 3.110 - Administrative Monetary Penalties for Continued Non-Compliance.....	14
Section 3.120 - Collection of Penalties	14
Section 3.130 - Right to Appeal	15
Section 3.135 - Appealing a Hearings Officer Decision.....	16
Section 3.140 - Recording a Violation	16

Section 3.005 - Purpose

The purpose of this Chapter is to provide administrative and civil enforcement procedures for the purpose of providing for the remediation of any failure to comply with this Ordinance. Wasco County's first preference is to encourage voluntary compliance.

It is further intended to establish a convenient and practicable process for the administrative hearing of any appeal arising out of any failure to comply with this Ordinance.

Section 3.010 - Enforcement Authority

- A. In addition to the authority and powers granted to the County by ORS Chapter 153, 203, and 215, and any other provisions of the Wasco County Code Compliance Ordinance, and upon authorization of the Planning Director or designee, or Board of County Commissioners or designee, the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance, shall have full authority to issue and prosecute any and all violations of this Ordinance.
- B. The Code Compliance Officer, or any employee authorized by the County to enforce this Ordinance, at all reasonable hours, is authorized to enter into any building and upon all property to ascertain whether any violation of this Ordinance are present.
- C. The Code Compliance Officer, or any employee authorized by the County to enforce this Ordinance, shall make reasonable efforts to notify the owner of record or person in charge of the property to obtain consent to enter. Before entering posted property or property clearly not open to the public and where consent cannot be obtained, an inspection warrant must be issued to enter the property.

Section 3.015 - Inspection Warrants

In the case of entry into areas of property that are enclosed to create privacy and to prevent access by unauthorized persons, where consent is not granted, or reasonable efforts to contact the owner of record or person in charge of the property have been unsuccessful, an inspection warrant may be sought.

Prior to seeking a warrant, the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance, shall consult with County Counsel and obtain approval and assistance in preparing the affidavit and warrant documents.

- A. Warrant - Authorization
Judges authorized by law to issue inspection warrants upon application by a peace officer or any employee authorized by the County to enforce County ordinances, may issue a warrant.
- B. Warrant - Probable Cause
 - 1. An inspection warrant shall be issued only upon cause, supported by affidavit, which shall describe with particularity:
 - a. The position and authority of the person applying for the inspection warrant;
 - b. The statute, ordinance, or rule requiring or authorizing the inspection or investigation;

- c. The place, building, or property to be inspected or investigated;
 - d. The purpose for which the inspection or investigation is to be made, including the basis upon which cause exists to inspect or investigate.
- 2. The affidavit shall contain either a statement that consent to enter the building or property was sought but consent was denied, the owner of record or person in charge of the property did not respond to the request for consent, or describe the reasonable efforts to contact the owner that were unsuccessful, or facts or circumstances reasonably showing that the purposes of the inspection or abatement might be frustrated if entry were sought without an administrative search warrant.
 - 3. Cause shall be deemed to exist when there is probable cause to believe that a violation exists.
 - 4. Before issuing an inspection warrant, the judge may examine under oath the person requesting the warrant or any other witness to be satisfied of the existence of the grounds to grant the inspection warrant.

C. Warrant - Contents

- 1. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied, the judge shall issue the warrant, describing with particularity the name or title of the person or persons authorized to execute the warrant, the buildings or property to be entered and purpose of the inspection or investigation.
- 2. The warrant shall contain a direction that it be executed when the owner of record or person in charge of the property is present on any day of the week between 8:00 a.m. and 6:00 p.m., unless the court finds that:
 - a. There is cause to conclude that an urgent risk to the health or safety of a person or of damage to property exists; or
 - b. The owner of record or person in charge of the property is not reasonably able to be located or is avoiding the property.

D. Warrant - Execution

- 1. In executing a warrant, the person authorized to execute the warrant, before entry, shall make reasonable effort under the circumstances to present the person's credentials, authority, and purpose to the owner of record or 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. A peace officer may be requested to assist in the execution of the administrative search warrant. Such peace officer may assist the person authorized to execute the warrant, including using any reasonable force necessary, to enter the property if the administrative warrant specifically allows the use of reasonable force to execute the warrant.
3. A warrant must be executed and returned to the court by whom it was issued within ten (10) days from its date. After the expiration of the time prescribed by this subsection, the inspection warrant is void unless executed.

Section 3.020 - Voluntary Compliance

- A. The County may, at the discretion of the Code Compliance Officer, enter into a written or verbal voluntary compliance agreement with the owner of record or person in charge of the property before or after a Notice of Violation is issued. The agreement shall include the required corrective action and time limits for compliance, and shall be binding.
- B. The fact that a person enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.
- C. The County may delay further processing of the violation during the time allowed in the voluntary compliance agreement for completion of the required corrective action.
- D. Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation. The County may consolidate the hearing on the failure to comply with the voluntary compliance agreement with the original violation(s). The County shall provide notice of a hearing on a violation of the voluntary compliance agreement in substantially the same manner as a Notice of Violation as provided under Section 3.040 of this chapter and include a copy of the original Notice of Violation.

Section 3.025 - Authority of Hearings Officer

- A. The Board of County Commissioners may designate one or more Hearings Officer(s) responsible for adjudicating and administering the provisions of this Chapter.
- B. In addition to imposition of civil and administrative monetary penalties as set forth herein, the Hearings Officer(s) may order conditions, restrictions, or other remedies reasonable calculated to address the violation(s) including, but not limited to:
 1. Suspension of any County permit, license or other County authorization otherwise required to engage in conduct directly related to the violation for a period of time specified by the Hearings Officer(s);

2. Physical alterations to property and changes in operations;
 3. Requiring that the violation be abated, corrected, removed, or otherwise brought into compliance within such time and manner as directed by the Hearings Officer(s); and
 4. Requiring that the person submit credible evidence to the County demonstrating compliance within a reasonable time as determined by the Hearings Officer(s).
- C. The Hearings Officer(s) may condition suspension of the penalty on the person agreeing to take reasonable steps to address the violation(s) as required by the Hearings Officer(s).
- D. The Hearings Officer(s) has any and all authority as is necessary to implement the obligations of this Chapter and to otherwise achieve compliance.

Section 3.030 - Initiating Enforcement Action

- A. When the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance has probably cause to believe or has determined whether there is sufficient evidence demonstrating a violation occurred, where voluntary compliance cannot be reached or attempts to secure voluntary compliance have failed, enforcement may be initiated as set forth in this Ordinance.
- B. Enforcement action will be initiated pursuant to the policy established by the Board in consideration of staff resources and priorities.
- C. If the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance determines that there is insufficient evidence to support any complaint or allegation of violation, the County may choose not to initiate enforcement action or take any further action on the allegation.

Section 3.040 - Notice of Violation

A Notice of Violation may be issued by the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance.

- A. The Notice of Violation shall include:
1. The street address or a description sufficient for identification of the property on with the violation(s) 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 Code 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 a verbal or written voluntary compliance agreement with the Code Compliance Officer that establishes an approved process and timetable to abate the violation(s);
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 to appeal the findings of the Notice of Violation and a description of the time limits for requesting an appeal, as described in Section 3.130 Right to Appeal.

Section 3.050 - Order to Correct

If following the Notice of Violation the owner of record or person in charge of the property has failed to enter into a voluntary compliance agreement or failed to voluntarily abate the violation, an Order to Correct may be issued by the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance.

A. The Order to Correct shall include:

1. The street address or a description sufficient for identification of the property on which the violation(s) 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 that the owner of record or person in charge of the property correct the violation(s) within 15 days from the date of the order;
4. 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 voluntary compliance agreement with the Code Compliance Officer that establishes an approved process and timetable to abate the violation(s);
5. 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

6. Disclose the right of the owner of record to appeal the findings of the Order to Correct and a description of the time limits for requesting an appeal, as described in Section 3.130 Right to Appeal.

Section 3.060 - Notice of Failure to Comply

If following the Order to Correct the owner of record or person in charge of the property has failed to enter into a voluntary compliance agreement or failed to voluntarily abate the violation(s), a Notice of Failure to Comply may be issued by the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance.

A. The Notice of Failure to Comply shall include:

1. The street address or a description sufficient for identification of the property on which the violation(s) 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 Code 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. 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;
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. A statement that unless the violation(s) are remedied, the County may abate the violation(s) and the cost of abatement, penalties, fees, and other County charges, shall be charged to the owner of record and/or person in charge of the property; and
9. Disclose the right of the owner of record to appeal the findings of the Notice of Failure to Comply and a description of the time limits for requesting an appeal, as described in Section 3.130 Right to Appeal.

B. Notwithstanding the Notice of Violation or Order to Correct, the Code Compliance Officer may issue a Notice of Failure to Comply without having issued a Notice of Violation, or

Order to Correct or making attempts to secure voluntary compliance, or to comply with any of the response time periods contained herein, where the Code 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 with County code.
- C. If the owner of record does not file a written appeal within 15 days of the date when the Notice of Failure to Comply is served or mailed, the Code Compliance Officer shall forward the Notice of Failure to Comply along with a statement of the proposed penalties plus fees and County charges to the Hearings Officer(s) for review and issuance of a written order.

Section 3.065 - Order of the Hearings Officer

- A. All orders of the Hearings Officer(s) shall be in writing and contain findings of fact and conclusions of law addressing the allegations contained in the Notice of Failure to Comply. Orders may also include findings of fact supporting the penalties, restrictions, conditions, or other remedies as required by the Hearings Officer(s). The order shall become final and effective on the date of the decision or such other time as determined by the Hearings Officer(s).
- B. A copy of the Hearings Officer Order shall be sent to the owner of record by certified mail.

Section 3.070 - Authority to Prosecute Enforcement Proceedings

- A. The following persons may initiate and prosecute County enforcement proceedings provided they have reasonable grounds to believe that a County violation has been committed:
1. A duly authorized County enforcement officer;
 2. A peace officer;
 3. County Counsel.
- B. Decisions made by persons authorized under this section, to prosecute or not prosecute an alleged violation, shall not constitute a land use decision.

- C. Prosecution of all violations shall be at the discretion of the County Counsel (or District Attorney).

Section 3.080 - Citation Procedure

The Code Compliance Officer or any employee authorized by the County to enforce this Ordinance, may issue a citation for a violation, which will result in the filing of a citation before the Circuit Court.

- A. County Counsel shall approve the form of County citations, which may include information in addition to that required by this section.
- B. Citations issued under this Chapter shall constitute:
 - 1. Notice of an enforcement action against the Defendant;
 - 2. A complaint sufficient to initiate administrative or judicial proceedings; and
 - 3. A summons to appear.
- C. Citations shall contain the following information:
 - 1. The name of the Defendant;
 - 2. The County code section or County ordinance allegedly violated:
 - a. Where a County provision incorporates Oregon law, the notice shall also cite the applicable provisions of the statute or rule.
 - b. Where a County provision incorporates separate regulations such as uniform code, the notice shall also cite the applicable regulation.
 - 3. A clear and concise description of the alleged violation;
 - 4. The date(s) on which the violation is believed to have occurred;
 - 5. The location of the alleged violation;
 - 6. The class of the violation under this chapter;
 - 7. The proposed penalty for each alleged violation as established under this chapter;
 - 8. A summons to appear, which shall include clear and concise statements advising the Defendant of the following:

- a. The right to a hearing;
 - b. The type of hearing provided to the Defendant, specifying either:
 - i. A judicial proceeding, before a court of law; or
 - ii. An administrative proceeding, before an administrative Hearings Officer;
 - c. The date and time of the hearing;
 - d. Notice that the Defendant is required to either:
 - i. Appear in person to answer the allegations; or
 - ii. Pay the proposed civil or monetary penalty no less than 24 hours prior to the date and time of the scheduled hearing;
 - e. The location of the hearing, as well as the physical address and mailing address to which the Defendant may provide payment of the proposed fine no less than 24 hours prior to the date and time of the hearing;
 - f. Notice to the Defendant that failure to either (1) appear in person on the established day and time; or (2) pay the proposed civil or monetary penalty no less than 24 hours prior to the established day, may result in the following:
 - i. The full amount of the proposed civil or monetary penalty being assessed;
 - ii. An order requiring the Defendant to correct any continuing violations;
 - iii. An additional violation being brought against the Defendant for failing to appear on a County violation.
9. The date the citation was issued; and
10. The name, title, and signature of the person issuing the citation.

D. Corrections:

- 1. Any errors or omissions in the citation may be corrected at any time with the permission of the court or administrative Hearings Officer. Such permissions shall not be withheld unless the correction would unduly prejudice the Defendant.
- 2. Any claim that an error or omission in the notice constitutes a defense to the violation must be asserted prior to the conclusion of the Defendant's first appearance. Failure

to assert a defense under this section shall constitute a waiver and shall bar all further such claims.

3. A citation may be set aside only if the Defendant is prejudiced by the error or omission.
4. If a citation is dismissed or set aside due to an error or omission, the County may re-institute civil or monetary penalty proceedings based up on the same conduct, condition, or circumstance alleged in the prior citation.

Where the form and content of citation is regulated by State law, proper use of the appropriate state-mandated form shall be deemed to satisfy all provisions of this section.

Section 3.085 - Initiating an Enforcement Proceeding

Enforcement proceedings shall be initiated by:

- A. Service of a citation on the Defendant; and
- B. Filing a copy of the citation with either:
 1. The Hearings Officer(s), to initiate an administrative enforcement proceeding; or
 2. The court, to initiate a judicial enforcement proceeding.

Section 3.090 - Hearings

- A. Pre-hearing Discovery - Upon motion demonstrating that the information is relevant and necessary, the Hearings Officer(s) may issue a pre-hearing order authorizing discovery of documents.
 1. The party requesting discovery shall pay the reasonable costs associated with the responding party including copying for production of documents.
 2. If a party fails to comply with a pre-hearing discovery order, the Hearings Officer(s) may issue a subpoena compelling a party to produce the documents or things or to appear as a witness. Any person other than the County or parties will be paid fees and mileage reimbursement consistent with the civil action.
 3. If a person or party fails to comply with a pre-hearing discovery order, the Hearings Officer(s) may make findings of fact adverse to the party in relation to the documents requested.

- B. The Hearings Officer(s) shall conduct a hearing on each violation, unless the case is dismissed, as follows:
1. All testimony shall be under oath;
 2. A digital audio and/or video recording of the proceedings shall be maintained;
 3. County Counsel, peace officer or other authorized employee prosecuting the violation shall proceed first and has the burden of proof and must prove the alleged offense by a preponderance of the evidence;
 4. Other persons may testify at the discretion of the Hearings Officer(s);
 5. Rebuttal is permitted as determined by the Hearings Officer(s);
 6. The Hearings Officer(s) shall determine whether the preponderance of the evidence demonstrates the violation occurred;
 7. The Hearings Officer(s) may discount or exclude any evidence that the Hearings Officer(s) deems to be irrelevant, immaterial, cumulative, or not reasonably credible;
 8. Circumstantial evidence is admissible; and
 9. The Oregon Evidence Code does not apply, however the following rules apply:
 - a. Evidence must be relevant to the alleged violation;
 - b. All witness testimony shall be under oath and participants can propose to the Hearings Officer(s) questions to be answered by other parties. Affidavits and declarations may be admissible subject to the Hearings Officer's discretion.
- C. If a violator fails to appear, the County shall present a prima facie case demonstrating that the violation occurred.
- D. If a violation is not remedied within the time ordered by the Hearings Officer(s), the County may request a compliance hearing to determine if the person is failing to comply with an order and decision of the Hearings Officer(s). Notice and conduct of a compliance hearing under this subsection shall be substantially in the same manner as the original violation.

Section 3.095 - Legal

- A. A Defendant may be represented by legal counsel, but counsel shall not be provided at public expense. A Defendant must notify the County within ten (10) days of the hearing if

they are represented by an attorney. Failure to do so may result in a continuance of the hearing.

- B. County Counsel, a peace officer, or an authorized employee may appear before the Hearings Officer(s) and prosecute on behalf of the County.

Section 3.100 - Civil Penalties

- A. Civil penalties include, but are not limited to:
 - 1. Monetary penalties according to the schedule of fines on violations;
 - 2. Restitution for harm caused to a victim;
 - 3. Physical alterations to property;
 - 4. Revocation or suspension of licenses or certificates or other County authorization directly related to the violation;
 - 5. Requiring that the condition or conduct that is the subject of the violation be abated, corrected, removed, or otherwise brought into compliance.
- B. Violations will be classified according to the table "Schedule of Fines on Violations;," adopted by resolution and order. If a violation is unclassified, it will be a Class C Violation.
- C. The amount the Code Compliance Officer must enter on the citation shall be the "presumptive fine".
- D. The Judge or Hearings Officer(s) may impose, upon conviction, a fine between the minimum and maximum amount.
- E. It is a Class A Violation to not fully comply with an order of a Hearings Officer.
- F. In all cases, a civil penalty is in addition to any other legal remedy available to enforce violations of this Ordinance.
- G. Unless otherwise ordered, civil penalties must be paid or complied with within fifteen (15) days of the final order. Such period may be extended upon order by the Hearings Officer(s).

Section 3.105 - Monetary Penalties

- A. The Board of County Commissioners shall establish the priority class for each violation and the penalty range associated with each priority class shall be adopted by resolution and order.
- B. Each day a violation continues may be treated as a separate violation.
- C. The imposition of monetary penalty does not relieve a responsible owner of record or person in charge of the property of the duty to abate a violation.
- D. The Code Compliance Officer or any employee authorized by the County to enforce this Ordinance may determine a penalty amount less than the minimum if it is determined there is a case involving economic or financial hardship.

Section 3.110 - Administrative Monetary Penalties for Continued Non-Compliance

Administrative monetary penalties may be imposed when the Hearings Officer(s) believes that a violation may continue based on a repeat violation, failure to comply with a notice or order, or such evidence that reasonably demonstrates a concern that the violation will continue.

- A. The administrative monetary penalty shall be 25% of the initial fine established and issued by the Code Compliance Officer, repeated per month for six (6) months and double that amount per month thereafter up to one (1) year, for a time period not to exceed five (5) years.
- B. The administrative monetary penalty will be imposed on a monthly basis without a hearing unless the violator demonstrates compliance as determined by the County consistent with the notice or order of the Code Compliance Officer or Hearings Officer(s).
- C. The County will provide a notice of the Administrative Monetary Penalty stating the amount, the method of acceptable payment, reference to the decision of the Code Compliance Officer or Hearings Officer(s), and the right to an appeal.
- D. An appeal of the administrative monetary penalty may be filed with the County within fifteen (15) days from the date of the notice of an administrative monetary penalty.

Section 3.120 - Collection of Penalties

- A. Any civil penalty, monetary penalty, or administrative monetary penalty imposed by the Hearings Officer(s) or Judge, fees, and other County charges collected under this Ordinance shall be deposited in the Wasco County General Fund.
- B. 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 the 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 and/or person in charge of the property.

- C. The County may institute appropriate suit legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer(s), including, an action to obtain judgement for any civil penalties, fees, or County charges imposed by such order.
- D. The Code 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 judgement, or as a lien for street improvements, and shall bear interest at the rate prescribed in ORS 82.010.

Section 3.130 - Right to Appeal

- A. When the owner of record has been given any Compliance Notice or Compliance Order pursuant to this Ordinance and it is believed the findings, penalties, fees, County charges, or other information in the Compliance Notice or Compliance Order are in error, the owner of record or person in charge of the property may submit in writing an appeal within 15 days of the date of the Compliance Notice or Compliance Order.
 - 1. The written appeal shall include:
 - a. The name and address of the person(s) submitting the appeal;
 - b. The street address or a description sufficient for identification of the property upon which the alleged violation has occurred or is occurring;
 - c. A detailed description of the alleged violation and a reference to the specific laws, County code(s), or conditions that has allegedly been misinterpreted or applied.
- B. Unless the citation is to circuit court, the appeals will be heard by a Hearings Officer appointed by the Board of Commissioners and the person requesting an appeal shall be given the opportunity to present evidence to the Hearings Officer.
- C. Upon receiving an appeal, the County shall schedule a hearing with a Hearings Officer within thirty (30) days. Notification of the hearing shall be made to both the person(s) appealing the decision and person(s) or property owner directly impacted by the decision no less than twenty (20) days prior to the hearing by certified mail.

- D. All appeals shall be accompanied by an appeal fee, adopted by the Board of County Commissioners, 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 fees are paid prior to the end of the 15 days indicated in the Compliance Notice or Compliance Order.
- E. 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.
- F. The appeal hearing shall follow procedure pursuant to Section 3.090 Hearings.
 - 1. Following the appeal hearing, the Hearings Officer(s) shall issue a written determination.
 - a. If the appellant is unsatisfied with the appeal hearing and/or written determination of the Hearings Officer(s), additional appeal may be sought pursuant to Section 3.135, within 15 days of the issuance of the written determination.

Section 3.135 - Appealing a Hearings Officer Decision

Appeals shall be made by way of writ of review pursuant to ORS 34.

Section 3.140 - Recording a Violation

- A. Notwithstanding Section 3.120 of this Ordinance, the Code Compliance Officer may record with the County Clerk information regarding County code violations and the potential or actual liens to be placed on the record of the property deed as a result of these violations. The document will notify a prospective buyer that the property is in violation and cannot legally be developed.
 - 1. The Code Compliance Officer shall send notice of intent to record a Notice of Violation to the owner of record, and the notice shall include:
 - a. The street address or a description sufficient for identification of the property on which the violation exists;
 - b. 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, and the intent to record a Notice of Violation with the deed;
 - c. A request that the owner of record or person in charge of the property contact the Code Compliance Officer to resolve the violation(s);

- d. Disclose the right of the owner of record to appeal the findings of the notice of intent to record a Notice of Violation and a description of the time limits for requesting an appeal, as described in Section 3.130 Right to Appeal.
- B. 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 intent to record a Notice of Violation is served or mailed, the Code Compliance Officer shall forward the notice along with the Notice of Violation to be recorded to the Hearings Officer(s) for review and issuance of a written order.
- C. The Code Compliance Officer shall notify the owner of record that the Notice of Violation has been recorded with the deed of the real property upon which the violation occurred or is occurring, with the County Clerk's office, and include a copy of the recorded Notice of Violation.
- D. At such time as the violation is abated by the owner of record or person in charge of the property, a Notice of Compliance shall be mailed First Class. The owner of record may record this document on the property deed with the County Clerk to cover the recorded Notice of Violation at the owner's expense.

CHAPTER 4 - ABATEMENT

Section 4.005 - Abatement	1
Section 4.010 - Summary Abatement	1
Section 4.020 - Abatement Warrants	2
Section 4.030 - Vehicle Abatement	4
Section 4.040 - Order to Abate	5
Section 4.050 - Abatement Costs, Notice, and Collection	6

Section 4.005 - Abatement

- A. If more than one (1) person is responsible for the creation or continuation of a violation, they shall be jointly and severally liable for abating the violation or for all costs incurred by the County in abating the violation.
- B. Abatement of a violation 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.
- C. Abatement of a violation as a last resort: Except in the case of summary abatement pursuant to Section 4.010, abatement of a violation 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 and/or issuance of monetary penalties.

Section 4.010 - Summary Abatement

- A. The decision regarding whether or not to use summary abatement shall be at the discretion of the Board of County Commissioners.
- B. 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, an abatement warrant shall be sought pursuant to Section 4.020.
- C. Following summary abatement, the Code Compliance Officer shall issue to the owner of record or person in charge of the property the Notice of Summary Abatement describing the action taken to abate the violation.
 - 1. The Notice of Summary Abatement shall include:

- a. The date the violation on the property was abated;
- b. The street address or a description sufficient for identification of the property on which the violation(s) existed;
- c. A statement of the violations of this Ordinance that existed at the property and were summarily abated;
- d. Disclosure that penalties, charges and liens will result from the summary abatement subject to Section 4.050; and
- e. 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 3.130 Right to Appeal, to the owner of record or person in charge of the property.

Section 4.020 - Abatement Warrants

In the case of entry into areas of property that are enclosed to create privacy and to prevent access by unauthorized persons, where consent is not granted, or reasonable efforts to contact the owner of record or person in charge of the property have been unsuccessful, an abatement warrant may be sought.

Prior to seeking a warrant, the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance, shall consult with County Counsel and obtain approval and assistance in preparing the affidavit and warrant documents.

A. Warrant - Authorization

Judges authorized by law to issue abatement warrants upon application by a peace officer or any employee authorized by the County to enforce County ordinances, may issue a warrant.

B. Warrant - Probable Cause

1. An abatement warrant shall be issued only upon cause, supported by affidavit, which shall describe with particularity:
 - a. The position and authority of the person applying for the abatement warrant;
 - b. The statute, ordinance, or rule requiring or authorizing the inspection or investigation;

- c. The place, building, or property to be abated;
 - d. The purpose for which the abatement is to be made, including the basis upon which cause exists to abate.
- 2. The affidavit shall contain either a statement that consent to enter the building or property was sought but consent was denied, the owner of record or person in charge of the property did not respond to the request for consent, or describe the reasonable efforts to contact the owner that were unsuccessful.
- 3. Cause shall be deemed to exist when there is probable cause to believe that a violation exists.
- 4. Before issuing an abatement warrant, the judge may examine under oath the person requesting the warrant or any other witness to be satisfied of the existence of the grounds to grant the abatement warrant.

C. Warrant - Contents

- 1. If the judge is satisfied that cause for the abatement exists and that the other requirements for granting the warrant are satisfied, the judge shall issue the warrant, describing with particularity the name or title of the person or persons authorized to execute the warrant, the buildings or property to be entered, the purpose of the abatement, and a statement of the general types and estimates of the quantity of the items to be removed and the conditions to be abated.
- 2. The warrant shall contain a direction that it be executed when the owner of record or person in charge of the property is present on any day of the week between 8:00 a.m. and 6:00 p.m., unless the court finds that:
 - a. There is cause to conclude that an urgent risk to the health or safety of a person or of damage to property exists; or
 - b. The owner of record or person in charge of the property is not reasonably able to be located or is avoiding the property.

D. Warrant - Execution

- 1. In executing a warrant, the person authorized to execute the warrant, before entry, shall make reasonable effort under the circumstances to present the person's credentials, authority, and purpose to the owner of record or 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. A peace officer may be requested to assist in the execution of the administrative abatement warrant. Such peace officer may assist the person authorized to execute the warrant, including using any reasonable force necessary, to enter the property if the administrative warrant specifically allows the use of reasonable force to execute the warrant.
3. A warrant must be executed and returned to the court by whom it was issued within ten (10) days from its date. After the expiration of the time prescribed by this subsection, the inspection warrant is void unless executed.

Section 4.030 - Vehicle Abatement

In the event the person responsible does not voluntarily comply by removing an abandoned or stored vehicle from private or public property or the public right-of-way within the specified time period of a Compliance Notice or Order, the Code Compliance Officer shall institute abatement proceedings to have the vehicle towed.

- A. Public property or public right of way: A law enforcement agency, authorized under County ordinance and the provisions of ORS 819, will be notified of the location of the vehicle. The Code Compliance Officer will provide the compliance case number and any information regarding the vehicle and compliance case deemed necessary.
- B. Private property: The Code Compliance Officer shall proceed with obtaining abatement warrants pursuant to Section 4.020. The licensed towing agent will be contacted and provided with the vehicle location.
- C. A notice will be mailed to the registered owner of the vehicle and to any lessors or security interest holders as shown in the State Department of Motor Vehicle records, and to the person responsible for the violation, that the vehicle is scheduled to be towed. The notice shall include:
 1. The location where the vehicle will be stored;
 2. That the vehicle and its contents will be subject to a lien for 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 fees are not paid;
 3. That it is the vehicle owner's responsibility to provide any information and payment needed for release of the vehicle and its contents to the towing agent;

4. Disclose the owner's right to request an appeal hearing to contest the validity of the towing or the liability for towing charges and administrative fee. A request for hearing must be in writing and be submitted not more than five (5) working days after receipt of this notice.

Section 4.040 - Order to Abate

Notwithstanding any Compliance Notice or Order issued by the Code Compliance Officer, Hearings Officer(s) or Judge, an Order to Abate may be issued in addition to the imposition of penalties for failure to comply.

A. The Order to Abate shall Include:

1. The street address or a description sufficient for identification of the property on which the violation 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 that the owner of record or person in charge of the property abate the violation(s) within 15 days from the date of the order;
4. A statement that unless the violation(s) are remedied, the County may abate the violation(s) 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
5. 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
6. Disclose the right to appeal the findings of the Order to Abate and a description of the time limits for requesting an appeal, as described in Section 3.130 Right to Appeal.

B. If the owner of record or person in charge of the property fail to abate the violation(s) within the 15 day response period of the Order to Abate, the County may cause the violation to be abated.

C. If no request for appeal is filed, the Code Compliance Officer shall forward the Order to Abate along with a statement of the estimated abatement cost plus any penalties, fees, and County charges to the Hearings Officer(s) for review and issuance of a written order.

Section 4.050 - Abatement Costs, Notice, and Collection

- A. The owner of record and all persons in charge of the property shall be jointly and severally liable for all costs associated with the abatement of a nuisance or violation, including but not limited to, administrative costs, warrant costs, and attorney fees.
- B. 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.
- C. After the violation(s) have been determined by the County to be corrected, the Code Compliance Officer or any employee authorized by the County to enforce this Ordinance shall issue a Notice of Abatement Cost to the owner of record or person in charge of the property. The Notice Of Abatement Costs shall contain:
 - 1. The street address or a description sufficient for identification of the property on which the violation(s) 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 3.130 Right to Appeal, to the owner of record or person in charge of the property.
- D. The Planning Director or designee shall have the final authority to decide what form of remedy the County will pursue for collecting abatement costs.
- E. The abatement costs shall be entered in the docket of County liens with the County Clerk, and shall constitute a lien upon the property that was in violation of the County code. In addition, the Notice of Abatement Costs shall constitute a personal obligation of the owner of record or person in charge of the property. The County may seek a money judgement against the owner of record and/or person in charge of the property through the Circuit Court or may pursue fines through the Hearings Officer.

1. The lien may be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by law.
2. An error in the name of the owner shall not void the lien, nor shall a failure to receive the notice render the lien void, but it shall remain a valid lien against the property.