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CHAPTER 15 ADMINISTRATION AND ENFORCEMENT

SECTION 15.010 Administration

It shall be the duty of the Director, or the Director's designee, to enforce the provisions of this ordinance pertaining to property use and to the construction, erection, location or enlargement of any structure located within Wasco County, Oregon, under the jurisdiction of this Ordinance.

SECTION 15.020 Building Permits

No permit shall be issued by the Building Official or any government agency for the construction, erection, location, maintenance, repair, alteration or enlargement, or the change of use of a structure or property that does not conform to the requirements of this Ordinance.

SECTION 15.030 Authority

Whenever necessary to enforce the provisions of this Ordinance, the Director, or the Director's designee, shall have the authority in addition to other remedies provided by law, to issue warning notices and citations, to institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin or abate a violation.

SECTION 15.040 Civil Relief

When a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used in violation of this Ordinance, the County Court, the District Attorney or any person whose interest in real property within 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. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings as provided under O.R.S. 32.010 to 32.060, the person shall furnish undertakings as provided under O.R.S. 32.010 to 32.060.

SECTION 15.050 Violation of Ordinance

No person shall construct, erect, locate, maintain, repair, alter, enlarge, use or change the use or uses of any structure or property or shall transfer any property in violation of this Ordinance.

SECTION 15.060 Violation of Ordinance as a Nuisance

The construction, erection, location, maintenance, repair, alteration, enlargement or use or change in use or uses of any structure or property or transfer of any property in violation of this Ordinance or those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and may be enjoined, abated or removed.

SECTION 15.070 Penalties

Any person, firm, corporation or other entity who violates any of the provisions of this Ordinance shall be guilty of a violation and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars (\$100.00) for each day of violation where the offense is a continuing offense, but such fine may not exceed one thousand dollars (\$1,000.00) for each occurrence of the continuing offense or a fine of five hundred dollars (\$500.00) where the offense is not a continuing offense. (amended 2-89)

SECTION 15.080 Jurisdiction

The Circuit Court for the State of Oregon for the County of Wasco has jurisdiction over any and all violations of this Ordinance.

SECTION 15.090 Issuance of Warning Notice

No citation shall be issued pursuant to this Ordinance unless, at least fifteen (15) days prior to service of such citation, a warning notice delivered by certified mail giving a brief description of the violation alleged to exist is first served upon the person accused of the offense or posted on the property where the violation is alleged to exist. The warning notice shall further contain the name of the County department to contact regarding the violation, the name of the person issuing the warning notice, the date the warning was issued and a statement that failure to correct the alleged violation or to contact the appropriate County department may result in issuance of a formal citation to the Wasco County Circuit Court.

SECTION 15.100 Requirements of Citation; Form and Content

- A. A citation conforming to the requirements of this Ordinance may be used for all Land Use Development and Solid Waste Ordinance violations committed in the presence of the complainant and which occur in the unincorporated areas of Wasco County, Oregon.
- B. The citation shall consist of at least three (3) parts. Additional parts may be inserted for administrative use. The required parts are:
 - 1. Complaint;

2. Planning Department's or Health Department's record of violation;
 3. Summons.
- C. Each of the parts shall contain the following information or blanks in which such information shall be entered:
1. Name of the Court and the Court's docket or file number;
 2. Name of the person cited;
 3. Section of the Ordinance violated;
 4. Brief description of the violation of which the person is charged in such manner as can be readily understood by a person making a reasonable effort to do so, the date and place at which the violation occurred, the date on which the citation was issued, and the name of the complainant;
 5. The time and place where the person cited is to appear in Court;
 6. The bail, if any, fixed for the violation;
 7. The designation of the method of service and certification that such service has been made;
 - a. The certification, if made by a Planning Department employee or Health Department employee, need not be made before a magistrate or any other person. A private person shall certify before a Circuit Court Judge, Clerk or Deputy Clerk of the Circuit Court of Wasco County, and this action will be entered in the Court record.
 - b. When such service is by certified mail, return receipt requested as described in Section 15.120 (A) of this Chapter, such shall be stated on the complaint and the required certification of service may be made upon receipt of the "return receipt" and after filing of the complaint. The complaint shall contain a form of certificate by the complainant to the effect that he certifies that he has reasonable grounds to believe, and does believe, that the person cited committed the violation contrary to the Land Use and Development or Solid Waste ordinance made and provided by Wasco County, Oregon.

The reverse side of the complaint shall contain the Court record and contain the substance of the matter appearing on the reverse side of all uniform complaints used in the Circuit Court of Oregon in Wasco County or otherwise directed by the Circuit Court.

A certificate conforming to this section shall be deemed equivalent to a sworn statement. In addition, the summons shall contain a notice to the person that the complaint will be filed with the Circuit Court of the State of Oregon in and for the County of Wasco. The reverse side of the summons shall contain the following in a form substantially as follows:

READ CAREFULLY

You have been charged with a violation of the Wasco County (Land Use Development, Solid Waste) Ordinance. You MUST do ONE of the following:

- A. Appear in Court at the time mentioned in this summons and request a hearing. The Court will then set a time for a hearing; or,
- B. Mail to the Court this summons, together with a check or money order in the amount of the bail indicated on the other side of this summons and tell the Court you request a hearing. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT. If you do not want a hearing, but wish to explain your side, send your explanation with the summons and bail. The Court will then consider your explanation and may forfeit your bail or part of it, on the basis of your explanation and what the complainant tells the Court; or,
- C. Sign the plea of guilty below and send this summons to the Court, together with check or money order in the amount of bail indicated on the other side of this summons. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT. NOTE: If you have already given bail or other security for your appearance, proceed as mentioned above but do not send in any additional sum as bail.

APPEARANCE, PLEA OF GUILTY AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the violation charged on the other side of this summons. I have been informed of my right to a trial, that my signature to this plea of guilty will have the same force and effect as a judgment of Court. I do, hereby PLEAD GUILTY to said violation as charged, WAIVE my right to a HEARING by the Court, and agree to pay the penalty prescribed for my violation.

(Defendant's Name)

(Defendant's Address)

MAIL YOUR REMITTANCE TO:

Wasco County Circuit Court
511 Washington Street
The Dalles, Oregon 97058

NOTICE

IF YOU FAIL TO COMPLY WITH THESE INSTRUCTIONS, THE COURT IS AUTHORIZED TO ISSUE A WARRANT FOR YOUR ARREST.

IF YOU FAIL TO DO ONE OF THE THREE FOREGOING PROCEDURES, OR FAIL TO APPEAR FOR TRIAL AT THE TIME SET BY THE COURT YOU MAY BE CHARGED WITH THE ADDITIONAL AND SEPARATE VIOLATION OF FAILURE TO MAKE REQUIRED APPEARANCE.

THE COURT MAY IN ANY CASE, AFTER NOTICE, REQUIRE YOU TO APPEAR FOR A HEARING.

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8. Any error in transcribing information into the blanks provided in the citation form when determined by the Court to be non-prejudicial to the Defendant's defense, may be corrected at the time of trial or prior to time of trial with notice being given to the Defendant.
 9. Except as provided in Section 15.100(8) above, the complaint shall be set aside by the Court only upon the motion of the Defendant before plea, if it does not conform to the requirements of this Section.

SECTION 15.110 Commencement of Action for Ordinance Violations

- A. The Planning Director, Sanitarian, or their designee, may issue a citation for violation of the Wasco County (Land Use Development, or Solid Waste) Ordinances committed in his presence and when committed at any location within the unincorporated area of Wasco County, Oregon, after consulting with the office of the District Attorney.
- B. A private person may only commence an action for an Ordinance violation as provided in Section 15.100 of this Chapter and under the same conditions as provided in subsection (A) of this Section. The commencement of all actions by private persons for violations committed in their presence shall be upon the Ordinance citation form and shall be at the discretion and in the judgment of the office of the District Attorney, and conform to the procedures for certification and service as required in Sections 15.100 and 15.120 of this chapter, respectively.

SECTION 15.120 Service of Citation

- A. If a citation is commenced as described in Section 15.110 (A), or (B), the Planning Director, Sanitarian, or their designee or peace officer, respectively, shall serve or cause to be served, the summons portion of such citation in one of the following manners:
1. To personally serve the summons portion of the citation on the Defendant. If the Defendant cannot be found personally at his usual abode, then service may be made to a member of his family over fourteen (14) years of age who resides at that abode.
 2. If the Defendant is unknown or unavailable for personal service by the citing officer, then the summons portion of the citation, prepared by the Planning Director, Sanitarian, or their designee may be personally served upon the Defendant by any peace officer authorized to serve such citations.
 3. If, after reasonable and due diligence, the Defendant cannot be served in the manner prescribed in subsections (1) and (2) hereinabove, service of the summons portion of said citation may be made by registered mail, return receipt requested, mailed to such person at his last known address with postage prepaid thereon. For the purposes of this Ordinance, service by mail shall be deemed perfected upon filing with the Court the return receipt endorsed by said Defendant. As soon as reasonably possible, provided, however, in no event later than the appearance date, the complainant shall file the complaint portion of the citation with the Clerk of the District Court. When service is not made at the time of commencement of the complaint, proof of service shall be filed immediately after service has been made.

SECTION 15.130 Minimum Requirements for Summons

A summons for an Ordinance violation is sufficient if it contains the following:

- A. The name of the Court, name of the person cited, date on which the citation was issued, name of the complainant and the time and place at which the person cited is to appear in Court.
- B. A brief description or designation of the offense in such a manner that can be readily understood by a person making a reasonable effort to do so and the date and place in which the violation is alleged to have occurred.
- C. A copy of the complaint as set forth in Section 15.100.

SECTION 15.140 Appearance by Defendant

The Defendant shall either appear in Court at the time indicated in the summons, or prior to such time shall deliver to the Court the summons, together with check or money order in the amount of the bail set forth on the summons, together with:

- A. A request for a hearing; or
- B. A statement of matters and explanation of mitigation of the offense charged; or
- C. The executed appearance, waiver of hearing and plea of guilty appearing on the summons.

SECTION 15.150 Effect of Statement and Explanation in Mitigation

If a Defendant has submitted to the Court a written statement as provided in Section 15.140(A)(2), it constitutes a waiver of hearing and consent to judgment by the Court declaring a forfeiture of all or any part of the bail as determined by the Court on the basis of such statement or complainant or other witness who may be presented to the Court.

SECTION 15.160 Fixing Hearing Dates; Notice to Defendant; Failure to Appear; the Separate Offense of Failing to Appear in Court Pursuant to Citation, Summons, Court Order or at the Time Set for Trial of Case

- A. If the Defendant requests a hearing, or pursuant to this Section, the Court directs that a hearing be held, the Court shall fix a date and time for hearing and, unless notice is waived, shall be at least (5) days in advance of hearing, mail to Defendant a notice of the date and time so fixed. The notice shall set forth a warning that for failure to appear for the hearing, the Defendant may be charged with a separate and additional offense of failure to appear in Court pursuant to Court order, citation or summons, or at time set for trial of the case.
- B. Notice to the Defendant required pursuant to Section 15.160 (A) shall be made in the form of a Court "Notice to Appear" and be placed in the United States mail addressed to the Defendant at his last known address with postage prepaid thereon.
- C. Failure of the Defendant to make appearance as set forth in subsection (A) of this Section, will constitute a failure to appear for hearing. If the Defendant fails to appear when notified by the Court to appear pursuant to subsection (B) of this Section, he may be charged with a separate and additional offense of failing to appear in Court pursuant to a Court order, or a citation or summons or at time set for trial of the case. Upon a finding by the Court that Defendant did not make appearance as required pursuant to this Ordinance without due and good cause, the Defendant shall be guilty of failure to appear.

SECTION 15.170 Hearing Discretionary with Court; Exception

- A. For any Ordinance violation for which citation has been issued, the Court may direct that a hearing be held. Otherwise, the Court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by the Defendant and return any amount by which the bail exceeds the fine.
- B. No fine may be imposed in excess of the amount of bail deposited by Defendant unless a hearing is held.

SECTION 15.180 Warrant for Arrest

- A. If a person cited fails to comply with the provisions of Section 15.130, or if he fails to appear at any time fixed by the Court, a warrant for his arrest may be issued by a judge of the Wasco County Circuit Court pursuant to O.R.S. 133.060.
- B. No warrant of arrest may be issued pursuant to this section after a period of sixty days from the date of entry of an order declaring a forfeiture of bail or other security given by the arrested person, unless a warrant has been issued before the expiration of that period, the order of forfeiture shall be deemed the final disposition of the case.

SECTION 15.190 Penalty for Failure to Appear

Upon conviction of any person under Section 15.160(C) of failure to appear without due and good cause, he shall be punished by a fine in addition to the fine and Court costs of the violation for which he failed to appear and such additional fine shall not be more than two hundred and fifty dollars (\$250.00).

SECTION 15.200 Planning Commission Membership

The Commission shall consist of seven (7) County residents appointed by the County Court to serve as members for a term of four (4) years or for the unexpired portion of the term of a member whom the appointee succeeds, provided that members of the Commission shall serve without compensation other than reimbursement for duly authorized expenses, and members of the Commission shall be residents of the various geographic areas of the County. No more than two (2) voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two (2) voting members shall be engaged in the same kind of business, trade or profession.

SECTION 15.220 Disqualification

Each appointed member shall serve until his successor is appointed and qualified except that no member of the Commission shall participate in any consideration of matter in which

he is directly or indirectly interested in a personal or financial sense.

SECTION 15.230 Officers

The Commission shall:

- A. At the first meeting of each calendar year elect from among their appointed members, to serve for no longer than twelve (12) months, a Chairman for their body. He shall preside at all meetings, shall appoint and serve ex officio upon all committees, shall compel the attendance of members and witnesses, shall administer oaths, and sign the minutes of meetings after the same be approved by the body.
- B. At said meeting, select from among their appointed members, to serve no longer than twelve (12) months, as Vice-Chairman for their body. He shall perform the duties of Chairman whenever that officer is absent, ill, disqualified or otherwise unable to act.

SECTION 15.240 Legal Advisor

The District Attorney or his deputy shall act as legal advisor to the Commission and represent them in all litigation, provided that when he determines a conflict of interest prevents such service, he may authorize either body to retain other counsel.

SECTION 15.250 Meetings

The Commission shall meet upon call of the Chairman pursuant to such rules as they may from time to time adopt. Meetings of the Commission shall normally be held monthly or as required, in which case the Commission shall decide upon the day to meet at its previous meeting. All meetings shall be public. All meetings of the Commission shall be publicized by giving notice thereof in a newspaper of general circulation not less than fifteen (15) days before the meeting.