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CHAPTER 1 INTRODUCTORY PROVISIONS

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CHAPTER 1 INTRODUCTORY PROVISIONS

SECTION 1.010 Authority

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

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

SECTION 1.020 Title

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

SECTION 1.030 Purpose

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

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

SECTION 1.040 Interpretation

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

SECTION 1.050 Scope

The provisions of this Ordinance shall apply to all unincorporated property in Wasco County except as otherwise excluded. The Solid Waste provisions of this Ordinance (Solid Waste as defined in section 1.120 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 1.060 Administration Authority and Responsibility

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 Compliance Officer to enforce the provisions of this Ordinance is independent of, and in addition to, the authority of other County officials to enforce the provisions of any other County Code.

SECTION 1.070 Private Right of Action /Civil Penalty

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

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

SECTION 1.080 Severability

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

SECTION 1.090 Repeal

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

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

SECTION 1.100 Saving Clause

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

SECTION 1.110 Effective Date

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

SECTION 1.120 Definitions

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

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

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

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

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

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

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, Notice of Failure to Comply: Violation Recorded on Deed, Notice of Failure to Comply/Administrative Civil Penalty, Notice of Abatement Cost, Notice of Summary Abatement, Order to Correct all forms of Order to Abate Nuisance, 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.

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

County - The County of Wasco, Oregon.

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

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

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

Dwelling - Any structure, 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.

NOTE: See the definition for Recreational Vehicle or Camping Vehicle to determine when an RV is considered a dwelling.

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

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

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

Health Officer - The 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.

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

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

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

- Historic Columbia River Highway
- Crown Point
- Highway I-84, including rest stops
- Multnomah Falls
- Washington State Route 14
- Beacon Rock
- Panorama Point Park
- Cape Horn
- Dog Mountain Trail
- Cook-Underwood Road
- Rowena Plateau and Nature Conservancy Viewpoint
- Portland Women's Forum State Park
- Bridal Veil State Park
- Larch Mountain
- Rooster Rock State Park
- Bonneville Dam Visitor Centers
- Columbia River
- Washington State Route 141
- Washington State Route 142
- Oregon Highway 35
- Pacific Crest Trail

Special Management Area (SMA) only:

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

LUDO - The Wasco County Land Use and Development Ordinance.

Maintained Compost Area - A small portion of a property set aside for the purpose of encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer for the soil on the property. A maintained compost area shows clear indicators that the yard debris placed there is being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump

it without reasonable expectation of rapid decomposition is not a maintained compost area.

May - Permits or allows an action.

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

Non-Resource Zones - Zones whose primary designations include, but are not limited to, residential, commercial and industrial development. These designations include all residential, commercial, industrial zones as well as the Forest Farm, Agricultural Recreation, Rural Community, Public Recreation and Open Space designations.

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

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

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

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

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

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

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

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

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

Partition Land - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from the creation of cemetery lots, and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where any additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

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

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

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

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

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

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

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

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

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

- a. It is connected to a sewer system (including septic tank) except for the purpose of emptying the holding tanks; after such time it must be disconnected;
- b. It is connected to water or electrical lines except for purposes of charging the batteries or filling water tanks; after such time it must be disconnected;
NOTE: Allowances can be made for subsections a and b above if in the opinion of the Compliance Officer evidence suggests that the use of the RV is occasional and temporary for the purpose of accommodating visitors
- c. It is occupied for more than 60 days, on the same property, in any consecutive 12 month period;
- d. It is parked on property that is without a legally placed dwelling for more than 30 days during any 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 - Water-carried human or animal waste and kitchen, bath, or laundry waste, from a structure, together with such groundwater infiltration and surface water as may be present.

Shall - Action is mandatory.

Should - Action is encouraged.

Solid Waste – Includes all putrescible and nonputrescible wastes, whether in solid or semi-solid form, including but not limited to: garbage, trash, rubbish, refuse, ashes, paper, cardboard; commercial and industrial wastes; demolition and construction wastes; manure, vegetable or animal solid or semi-solid wastes including yard debris, dead animals; medical and infectious waste as defined in ORS 459.386 and OAR 340-93-030 (42) and (52); all wastes capable of being recycled that are commingled with other wastes; and, incidental Household Hazardous Waste or Small Quantity Generator Hazardous waste as defined under 40 CFR 261.5. The 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.

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

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

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

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

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

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

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

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

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

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

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

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

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