ORDINANCE NO. 2331

AN ORDINANCE AMENDING CHAPTER 135 OF THE HERMISTON MUNICIPAL CODE, ENTITLED "STRUCTURAL MAINTENANCE REGULATIONS."

Whereas, the staff of the City of Hermiston is conducting a major review of the City's Code of Ordinances, now, therefore,

The City of Hermiston ordains as follows:

(New language is in red and underlined and repealed language has ~~a line through it~~.)

Section 1. The title of Chapter 135 of the Hermiston Municipal Code is amended to read:

CHAPTER 135
~~Structural~~ Property Maintenance Regulations

Section 2. Section 135.001 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.01 TITLE.
This ~~chapter~~ Chapter shall be known as "Property Maintenance Regulations" and is referred to herein as "this Chapter ~~chapter~~."

Section 3. Section 135.002 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.02 PURPOSE.
The purpose of this Chapter ~~chapter~~ is to protect the health, safety and welfare of City residents ~~citizens~~, to prevent deterioration of existing housing, and to contribute to vital neighborhoods by:

(A) Establishing and enforcing minimum standards for residential structures regarding basic equipment, facilities, sanitation, fire safety, and maintenance.

(B) Establishing and enforcing minimum standards of maintenance for outdoor areas and adjacent rights of way.

(C) Regulating and abating dangerous and derelict buildings.

Section 4. Section 135.003 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.03 SCOPE.
The provisions of this Chapter ~~chapter~~ shall apply to all property in the City ~~city~~ except as otherwise excluded by law.

Section 5. Section 135.004 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.04 APPLICATION OF BUILDING CODES AND ORDINANCES.

Any alterations to buildings, or changes of their use, which may be a result of the enforcement of this Chapter ~~chapter~~ shall be done in accordance with applicable state building codes and the City ~~city~~ codes and ordinances. No provision of this Chapter ~~chapter~~ shall be construed to conflict with or impose construction standards in addition to those provided in the State or local building code, except as permitted by law.

Section 6. Section 135.005 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.05 DEFINITIONS.
For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. ~~Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. "And" indicates that all connected items or provisions apply. "Or" indicates that the connected items or provisions may apply singly or in combination.~~ Terms, words, phrases and their derivatives used, but not specifically defined in this Chapter ~~chapter~~, either shall have the meanings defined in the City ~~city~~ building codes, or if not defined, shall have their commonly accepted meanings. ~~The definitions of words with specific meaning in this chapter are as follows:~~

ABATEMENT ~~OF A NUISANCE~~. The act of removing, repairing, securing, vacating, or taking other steps as may be necessary in order to remove a nuisance.

ACCESSORY STRUCTURE. A non-dwelling structure incidental and subordinate to the main use of the property and which is on the same lot with the main use. ~~Any structure not intended for human occupancy which is located on residential property. Accessory structures may be attached to or detached from the residential structure.~~ Examples of accessory structures include but are not limited to: garages, carports, cabanas, storage sheds, tool sheds, play houses, garden structures, ~~and~~ other non-dwelling buildings~~; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs~~ and ~~other~~ exterior structures on the property.

ADJACENT RIGHT-OF-WAY. The sidewalks and planting strips that border a specific property as well as the near half of the streets, alleys, or other public rights of way that border a specific property.

~~APARTMENT HOUSE. See "Dwelling Classifications."~~

APPROVED. Meets the standards set forth by applicable Hermiston City Code including any applicable regulations for electric, plumbing, building, or other sets of standards included by reference in this Chapter ~~chapter~~.

~~BASEMENT. The usable portion of a building which is below the main entrance story and is partly or completely below grade.~~

~~BUILDING. Any structure used or intended to be used for supporting or sheltering any use or occupancy.~~

~~BUILDING, EXISTING. Existing building is a building erected prior to the adoption of this chapter, or one for which a legal permit has been issued.~~

BOARDED. Secured against entry by apparatus which is visible off the premises and is not both otherwise lawful and customary to install on occupied structures.

BUILDING REGULATIONS. City building codes, this Chapter and ~~or~~ any other safety or health statute, ordinance, regulation, rule standard, or order ~~the City Manager or Building Official is authorized to enforce~~.

~~CEILING HEIGHT. The clear distance between the floor and the ceiling directly above it.~~

~~CITY MANAGER. City Manager or his/her designee, charged with the enforcement and administration of this chapter.~~

COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

~~DANGEROUS BUILDING. See "Dangerous Structure."~~

DANGEROUS BUILDING OR STRUCTURE. Any building or structure which has any of the conditions or defects described in § 135.052 ~~to the extent that life, health, property, or safety of the public or its occupants are endangered~~.

DEMOLITION WARRANT. An order from a court of competent jurisdiction authorizing the demolition of a dangerous structure pursuant to ~~as authorized by~~ this ~~chapter~~ Chapter and Chapter 139, including disposal of all debris in an approved manner, and returning the lot to a clean and level condition.

~~DERELICT BUILDING. Any structure which has any of the conditions or defects described in § 135.051(A).~~

DISABLED VEHICLE. Any vehicle which is or appears to be inoperative, wrecked or dismantled, or partially dismantled.

~~DUPLEX. See "Dwelling Classifications, two-family dwelling."~~

DWELLING. Any structure containing dwelling units, including manufactured homes, and floating homes ~~all dwelling classifications covered by the chapter~~.

~~DWELLING CLASSIFICATIONS. Types of dwellings covered by this chapter include:~~

~~(1) SINGLE-FAMILY DWELLING. A structure containing one dwelling unit.~~

~~(2) TWO-FAMILY DWELLING. A structure containing two dwelling units, also known as a "duplex."~~

~~(3) APARTMENT HOUSE. Any building or portion of a building containing three or more dwelling units, which is designed, built, rented, leased, let, or hired out to be occupied for residential living~~

~~purposes.~~

~~(4) HOTEL. Any structure containing six or more dwelling units that are intended, designed, or used for renting or hiring out for sleeping purposes by residents on a daily, weekly, or monthly basis.~~

~~(5) MOTEL. For purposes of this chapter, a motel shall be defined the same as a hotel.~~

~~(6) SINGLE-ROOM OCCUPANCY HOUSING UNIT. A one-room dwelling unit in a hotel providing sleeping, cooking, and living facilities for one or two persons in which some or all sanitary or cooking facilities (toilet, lavatory, bathtub or shower, kitchen sink, or cooking equipment) may be shared with other dwelling units.~~

~~(7) MANUFACTURED DWELLING. The term "manufactured dwelling" includes the following types of single-family dwellings:~~

~~(a) Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed before January 1, 1962.~~

~~(b) Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.~~

~~(c) Manufactured Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations.~~

~~(d) Manufactured dwelling does not include any unit identified as a recreational vehicle by the manufacturer.~~

~~(8) FLOATING HOME. A floating structure used primarily as a dwelling unit. Application of this chapter shall be modified for floating homes, when appropriate, by nautical application.~~

DWELLING UNIT. One of more habitable rooms 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 includes facilities for living and sleeping and also includes facilities for cooking, eating, and sanitation.

EXIT (MEANS OF EGRESS). A continuous, unobstructed means of escape to a public way, including intervening doors, doorways, exit balconies, ramps, stairways, smoke-proof enclosures, horizontal exits, passageways, exterior courts and yards.

~~EXTERIOR PROPERTY AREA. The sections of residential property which are outside the exterior~~

~~walls and roof of the dwelling.~~

~~EXTERMINATION. The elimination of insects, rodents, vermin or other pests at or about the affected building.~~

~~FEE-PAID INSPECTION. Any requested inspection which is not a part of the city's code enforcement program including but not limited to inspections done prior to moving houses, for establishing tax exempt status, for housing and urban development properties.~~

FLOATING HOME. A floating structure used primarily as a dwelling unit. Application of this Chapter shall be modified for floating homes, when appropriate, by nautical application.

FLOOR AREA. The area of clear floor space in a room exclusive of fixed or built-in cabinets or appliances.

HABITABLE ROOM (SPACE). Habitable room or space is a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

~~HOTEL. See "Dwelling Classifications."~~

HOTEL AND MOTEL. Any residential structure containing six or more dwelling units that are intended, designed, or used for renting or hiring out for sleeping purposes and:

(1) Occupancy is charged on a daily basis and is not collected more than six days in advance;

(2) Cleaning and linen service is offered daily or every two days as part of the regularly charged cost of occupancy;

(3) The period of occupancy does not exceed 30 days; and

(4) If the occupancy exceeds five days, the resident has a business address or a residence other than at the hotel or motel.

IMMEDIATE DANGER. Any condition posing a direct immediate threat to human life, health, or safety.

INFESTATION. The presence within or around a dwelling of insects, rodents, vermin or other pests to a degree that is harmful to the dwelling, ~~or~~ its occupants or adjacent residents or dwellings.

~~INSPECTION. The examination of a property by the City Manager whose primary function is the inspection of properties and the enforcement of this chapter.~~

~~INSPECTION WARRANT. An order from a court of competent jurisdiction authorizing a safety or health inspection or investigation to be conducted at a designated property.~~

~~INSPECTOR. An authorized representative of the City Manager whose primary function is the inspection of properties and the enforcement of this chapter.~~

~~INTERESTED PARTY. Any person or entity that possesses any legal or equitable interest of record in a property including but not limited to the holder of any lien or encumbrance of record on the property.~~

~~KITCHEN. A room used or designed to be used for the preparation of food.~~

LAVATORY. A fixed wash basin connected to hot and cold running water and the building drain and used primarily for personal hygiene.

~~LAWN AREA. Any area of a property where lawn grasses are used as ground cover, or any area of a property where the ground covering vegetation does not permit passage to substantial portions of the property without walking directly on the vegetation.~~

~~LAWN GRASS. Varieties of grass that were planted, or are commonly sold, for the purpose of maintaining a mowed lawn.~~

~~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 material 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.~~

~~MAINTENANCE. The work of keeping property in proper condition to perpetuate its use.~~

MANUFACTURED DWELLING. ~~See "Dwelling Classifications."~~ Includes the following types of dwellings:

(a) Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed before January 1, 1962.

(b) Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(c) Manufactured Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations.

(d) Manufactured dwelling does not include any unit identified as a recreational vehicle by the manufacturer or state law.

~~MOTEL. See "Dwelling Classifications."~~

~~NATURESCAPE. Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.~~

NEGLECTED BUILDING. Any structure which has any of the conditions or defects described in § 135.051.

NUISANCE ABATEMENT ORDER OR WARRANT. An order, or warrant issued by a court, directing the removal and abatement of any violation or nuisance arising under this ~~chapter~~ Chapter, including disposal of debris and the nuisance items ~~removed~~ in an appropriate manner.

OCCUPANCY. The use or offering of a structure for use by an occupant ~~lawful purpose for which a building or part of a building is used or intended to be used~~.

OCCUPANT. Any person (including an owner or operator) using a building, or any part of a building, ~~for its lawful intended use~~. Unless the context indicates otherwise, it includes a resident.

OCCUPIED. Used for an occupancy.

OPERATOR. Any person who has charge, care or control of a building or part of a building in which dwelling units are let or offered for occupancy.

~~OUTDOOR AREA. All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to, vehicles parked on the property; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.~~

~~OWNER. The person whose name and address is listed as the owner of the property by the County Tax Assessor on the county assessment and taxation records.~~

PLUMBING or PLUMBING FIXTURES. Plumbing or plumbing fixtures mean any water heating facilities, water pipes, vent pipes, garbage or disposal units, waste lavatories, bathtubs, shower baths, installed clothes-washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connection to water, gas, sewer, or vent lines.

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

~~PUBLIC RIGHT-OF-WAY. Any sidewalk, planting strip, alley, street, or pathway, improved or unimproved, that is dedicated to public use.~~

REPAIR. The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

RESIDENT. Any person (including owner or operator) hiring or occupying a room or dwelling unit for living or sleeping purposes.

~~RESIDENTIAL PROPERTY. Real property and all improvements or structures on real property used or intended to be used for residential purposes including any residential structure, dwelling, or dwelling unit as defined in this chapter and any mixed-use structures which have one or more dwelling units. Hotels that are used exclusively for transient occupancy, as defined in this chapter, are excluded from this definition of residential property.~~

RESIDENTIAL RENTAL PROPERTY. Any property within the City ~~city~~ on which exist one or more dwelling units which are not occupied as the principal residence of the owner.

RESIDENTIAL STRUCTURE. Any building or other improvement or structure containing one or more dwelling units, as well as any accessory structure. This includes any dwelling as defined in this Chapter ~~chapter~~.Hotels and Motels that are used exclusively as defined in this Chapter, are excluded from this definition of residential structure.

~~SHALL. As used in this chapter, is mandatory.~~

~~SINGLE-FAMILY DWELLING. See "Dwelling Classifications."~~

~~SINGLE-FAMILY OCCUPANCY HOUSING UNIT. See "Dwelling Classifications."~~

SINK. A fixed basin connected to hot and cold running water and a drainage system and primarily used for the preparation of food and the washing of cooking and eating utensils.

SLEEPING ROOM. Any room designed, built, or intended to be used as a bedroom, as well as any other room used for sleeping purposes.

~~SMOKE DETECTOR. An approved detector which senses visible or invisible particles of combustion and which plainly identifies the testing agency that inspected or approved the device.~~

STAGNANT WATER. Any impoundment of water in which there is no appreciable flow of water through the impoundment and the level of water does not vary during any 48-hour period.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.

SUBSTANDARD. In violation of any of the minimum requirements as set out in this Chapter ~~chapter~~.

~~SUMMARY ABATEMENT. Abatement of a nuisance by the city, or by a contractor hired by the city, without obligation to give prior notice of the abatement action to the owner or occupant of the property.~~

SUPPLIED. Installed, furnished or provided by the owner or operator.

~~SWIMMING POOL. An artificial basin, chamber, or tank constructed of impervious material, having a depth of 18 inches or more, and used or intended to be used for swimming, diving, or recreational bathing.~~

TOILET. A flushable plumbing fixture connected to running water and a drainage system and used for the disposal of human waste.

TOILET COMPARTMENT. A room containing only a toilet or only a toilet and lavatory.

~~TRANSIENT OCCUPANCY. Occupancy of a dwelling unit in a hotel where the following conditions are met:~~

~~(1) Occupancy is charged on a daily basis and is not collected more than six days in advance.~~

~~(2) The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy.~~

~~(3) The period of occupancy does not exceed 30 days; and~~

~~(4) If the occupancy exceeds five days, the resident has a business address or a residence other than at the hotel.~~

~~TWO-FAMILY DWELLING. See "Dwelling Classifications."~~

UNOCCUPIED. Not currently in use ~~used~~ for occupancy.

UNSECURED. Any structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

VEHICLE. Any device in, on, upon, or by which any person or property is or may be transported or drawn upon a public highway, except a device moved by human power or used exclusively upon stationary rails or tracks, including but not limited to a body, an engine, a transmission, a frame, or other major part.

WARRANT. An administrative warrant, inspection warrant or other warrant or court order provided for in Chapter 139, including a search warrant.

YARD. An open, unoccupied space, other than a court, unobstructed from the ground to the sky, and located between a structure and the property line of the lot on which the structure is situated.

Section 7. Section 135.020 of Chapter 135 of the Hermiston Municipal Code is repealed:

~~PROPERTY NUISANCES~~

~~135.020 OUTDOOR MAINTENANCE REQUIREMENTS.~~

~~It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:~~

~~(A) Holes, tanks, and child traps. Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.~~

~~(B) Unsecured structures. Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any structure so as to prevent access by unauthorized persons through such openings.~~

~~(C) Rat harborage. Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.~~

~~(D) Emergency access routes. Remove and keep removed all brush, vines, overgrowth and other vegetation located within ten feet of a structure or within ten feet of a property line which is likely to obstruct or impede the necessary passage of fire or other emergency personnel.~~

~~(E) Thickets that conceal hazards. Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:~~
~~(1) Concealing trash and debris; or~~
~~(2) Creating rat harborage; or~~
~~(3) Creating harborage for people involved in criminal activity or for products used for criminal activity.~~

~~(F) Overgrown lawn areas. Cut and remove and keep cut and removed all weeds and grass that are located in lawn areas and have a prevailing height of more than 15 inches.~~

~~(G) Trash and debris. Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:~~

~~(1) All household garbage, offal, dead animals, animal and human waste, and waste materials (All household garbage shall be stored as specified in § 135.034);~~

~~(2) Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;~~

~~(3) All dead bushes, dead trees, and stumps with the exception of such material which:~~
~~(a) Is being maintained as part of a nature scaped property;~~
~~(b) Does not result in a nuisance as otherwise defined in this chapter; and~~
~~(c) Is located on a property which is otherwise substantially in compliance with this chapter;~~

(4) All trees or bushes which are dying and are determined to require removal in order to safeguard people or property;

(5) Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and

(6) Accumulations of clothing and any other items not designed for outdoor storage.
(7) All irrigation water or water used for domestic or other purposes to run across or upon any city street as specified in § 94.04.

(H) Storage of non-trash items. Remove, and keep removed, unless specifically authorized by this code to do otherwise:
(1) Accumulations of wood pallets.
(2) All firewood that is not stacked and usable. "Usable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property.
(3) Accumulations of vehicle parts or tires.
(4) All 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) All 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.
(6) All 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) All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.
(8) All other non-trash items which:
(a) Are 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.

(I) Disabled vehicles. Neither store nor permit the storing of a disabled vehicle for more than seven days unless the vehicle is enclosed within a legally permitted building or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the city. Removal and disposition of such disabled vehicles shall be in accordance with all applicable city codes to the extent that such provisions are applicable.

(J) Obstructions to sidewalks, streets, and other rights of way. Keep the adjacent rights of way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, unless specifically authorized by ordinance to do otherwise. This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights-of-way referenced in this subsection to meet the following minimum clearances:
(1) Sidewalks. All sidewalks must be clear of obstructions by earth, rock, or vegetation from edge to edge and to an elevation of ten feet above sidewalk level. For example, bushes that encroach on or over any part of a sidewalk area must be cut back or removed and limbs of trees that project over the sidewalk area at an elevation of less than ten feet above the sidewalk level must be removed.

~~(2) Improved streets. All improved streets must be clear of obstructions to vehicle movement and parking from edge to edge and to an elevation of 14 feet above street level. For example, bushes that encroach on or over any part of a street must be cut back or removed; limbs of trees that project over a street at an elevation of less than 14 feet above street level must be removed; and no wires or other things shall be maintained over the street level at any elevation less than 11 feet.~~
~~(3) Alleys and unimproved rights-of-way. All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.~~

Section 8. Section 135.021 of Chapter 135 of the Hermiston Municipal Code is repealed:

~~135.021 OTHER ENDANGERING CONDITIONS.~~
~~It is the responsibility of the owner of any property, improved or unimproved, to remove or repair:~~

~~(A) Any damage to or failure of an on-site sewage disposal system, private sewer line, or rain drain system, and~~

~~(B) Any other substance, material or condition which is determined by the City Manager to endanger neighboring property, the health or safety of the public, or the occupants of the property.~~

Section 9. Section 135.022 of Chapter 135 of the Hermiston Municipal Code is repealed:

~~135.022 NUISANCE DEFINED, SUMMARY ABATEMENT AUTHORIZED.~~

~~All conditions in violation of §§ 135.020 and 135.021 of this chapter shall constitute a nuisance. Any person whose duty it is to correct such conditions and who fails to do so shall be subject to the penalties provided for by this chapter. In cases where the City Manager determines that it is necessary to take immediate action in order to meet the purposes of this chapter, summary abatement of such nuisances is authorized.~~

Section 10. Section 135.030 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.30 APPLICABILITY, COMPLIANCE.
No owner shall maintain or permit to be maintained any residential structures governed by this Chapter ~~residential property~~ that which does not comply with the requirements of the Code ~~code~~. All such residential structures ~~residential property~~ shall be maintained to the building code requirements in effect at the time of construction, alteration, or repair, or any state law requirement imposed on existing construction ~~and shall meet the requirements described in §§ 135.030 through 135.040~~.

Section 11. Section 135.031 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.31 DISPLAY OF ADDRESS NUMBER.
All residential structures shall have address numbers posted in a conspicuous place so they may be read from the listed street or public way. Address numbers posted shall be the same as the number listed on the county assessment and taxation records for the property. ~~All dwellings shall have address numbers posted in a conspicuous place so they may be read from the listed street or public way~~. Dwelling units within apartment and condominium units ~~Units within apartment houses~~ shall be clearly numbered, or lettered, in a logical and consistent manner.

Section 12. Section 135.032 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.32 ~~ACCESSORY STRUCTURES.~~
~~All accessory structures on residential property shall be maintained structurally safe and sound and in good repair.~~

135.0323 ~~3~~ INSECT AND RODENT HARBORAGE.
Every residential structure ~~dwelling~~ shall be kept free from insect and rodent infestation, and where insects and rodents are found, they shall be promptly exterminated. After extermination, proper precautions shall be taken to prevent re-infestation.

Section 13. Section 135.033 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.0334 ~~4~~ CLEANLINESS AND SANITATION.
(A) All exterior property areas shall be maintained in a clean and sanitary condition free from any excessive accumulation of rubbish or garbage. ~~All household garbage shall be stored in receptacles which are free from holes and covered with tight fitting lids.~~

(B) All residential structures shall have solid-waste service and receptacles as provided in Chapter 50.17. ~~The owner or occupant of any residential rental property shall provide in a location accessible to all dwelling units 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, 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 or occupant of the units shall subscribe to and pay for weekly garbage removal service for the receptacles required by this section, by a refuse collection permittee or franchisee as defined in the code.~~

Section 14. Section 135.034 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.0345 ~~5~~ PLUMBING FACILITIES.
(A) Every residential structure plumbing fixture or device shall be properly connected to a public or an approved private water system and to a public or an approved private sewer system in accordance with Chapters 51 and 52 and the building code.

(B) All required sinks, lavatory basins, bathtubs and showers shall be supplied with both hot and cold running water. Every dwelling unit shall be supplied with water heating facilities which are installed in an approved manner, properly maintained, and properly connected with hot water lines to all required sinks, lavatory basins, bathtubs and showers. Water heating facilities shall be capable of heating water enough to permit an adequate amount of water to be drawn at every required facility at a temperature of at least 120 F at any time needed.

Section 15. Section 135.035 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.0356 ~~6~~ EXTERIOR WALLS AND EXPOSED SURFACES ~~D~~.

(A) Every residential structure exterior wall and weather-exposed surfaces or attachments shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.

(B) All residential structure exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative and be maintained in good condition. Wood used in construction of permanent structures and located nearer than six inches to earth shall be treated wood or wood having a natural resistance to decay.

(C) All residential structure exterior ~~Exterior~~ metal surfaces shall be protected from rust and corrosion.

(D) Every section of a residential structure exterior brick, stone, masonry, or other veneer shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

Section 16. Section 135.036 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.036~~7~~ OVERCROWDING.
No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one plus one additional resident for every 100 square feet of floor area of the habitable rooms in the dwelling unit.

Section 17. Section 135.037 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.037~~8~~ HAZARDOUS MATERIALS.
(A) When paint is applied to any surface of a residential structure, it shall be lead free.

(B) Residential structures and property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other circumstances that would render the property unsafe. Where a governmental agency authorized by law to make the determination has verified that a property is unfit for use due to hazardous conditions on the property, the property shall be in violation of this Chapter ~~chapter~~. Any such property shall remain in violation of this Chapter ~~chapter~~ until such time as the agency has approved the abatement of the hazardous conditions. The City may order abatement, including that the property be vacated. ~~The City Manager may order such property vacated pursuant to § 135.076.~~

(C) No residential structure or property shall be used as a place for the storage and handling of highly combustible or explosive materials or any articles which may be dangerous or detrimental to life or health. No residential structure or property shall be used for the storage or sale of paints, varnishes or oils used in the making of paints and varnishes, except as needed to maintain the dwelling.

(D) Residential ~~property~~ structures shall be kept free of friable asbestos.

Section 18. Section 135.038 of Chapter 135 of the Hermiston Municipal Code is amended to read:
135.038~~9~~ MAINTENANCE OF FACILITIES AND EQUIPMENT.
In addition to any other requirements for the maintenance of residential facilities and equipment under this Code or building codes ~~described in §§ 135.030 through 135.040~~:

(A) All required facilities in every dwelling shall be constructed and maintained to properly and safely perform their intended function.

(B) All non-required facilities or equipment present in a dwelling shall be maintained to prevent structural damage to the building or hazards of health, sanitation, or fire.

Section 19. Section 135.039 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.039~~40~~ SWIMMING POOLS, SPAS, HOT TUBS, PONDS AND ENCLOSURES.
(A) ~~Each swimming pool not totally enclosed by a structure shall be enclosed by a substantial fence at least four feet in height and equipped with a self-closing and latching gate except where bordered by a wall of an adjacent structure at least four feet in height.~~ All outdoor swimming pools, spas or hot tubs or outside body of water designed or used for swimming, diving, or recreational bathing, regardless of residential or commercial use, having a depth of more than 24 inches (610mm), shall comply with Appendix G of the 2017 Oregon Residential Specialty Code, or successor specialty code, including, but not limited to enclosures governing swimming pools, hot tubs and spas. No swimming pool, spa, or hot tub shall be nearer than three feet from any lot line, and no enclosing fence or wall shall be constructed nearer than three feet to the outer walls of the swimming pool. ~~Pool enclosures shall meet the city building code, and the city's code of ordinances.~~

(B) A fishpond or decorative pool, having a depth of 18 inches or more, shall be constructed and maintained in an acceptable enclosure and securely close off or block any and all entrances thereto, and shall not be nearer than three feet from any lot line. An acceptable enclosure shall be one of the following:

(1) A fence completely surrounding the fishpond or decorative pool; or

(2) A wire across or cover of sufficient strength to hold a weight of at least 75 pounds and installed not more than six inches below the surface of the water at all times.

(C) Pools, spas, hot tubs, ponds and enclosures shall comply with the City ~~city~~ building code, zoning code and any other applicable Code provision.

(D) A pool, spa, hot tub or pond not in compliance with this section is an attractive nuisance as defined in Chapter 92.

Section 20. The following subtitle for Chapter 135 of the Hermiston Municipal Code is amended to read:

DANGEROUS AND ~~DERELICT~~ NEGLECTED STRUCTURES

Section 21. Section 135.050 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.50 REPAIR OR DEMOLITION REQUIRED.
No residential property shall contain any dangerous structure or neglected ~~derelict~~ building as described

in ~~§§ 135.051 and 135.052~~ this Chapter. All such structures shall be repaired or demolished.

Section 22. Section 135.051 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.51 ~~DERELICT~~ NEGLECTED BUILDINGS.
(A) A ~~derelict~~ neglected building shall be considered to exist whenever any ~~building,~~ residential structure, or portion thereof which is unoccupied, ~~meets any of the following criteria~~ or in the case of a hotel or apartment building ~~any residential structure~~ in which ~~is at~~ least 50% of the dwelling units are not suitable for occupancy under this Code or the building code ~~unoccupied~~, and meets any of the following criteria:

(1) Has been ordered vacated or demolished ~~by the City Manager pursuant to § 135.076~~;

(2) Has been issued a nuisance ~~correction~~ notice ~~by the City Manager pursuant to § 135.074~~;

(3) Is unsecured;

(4) Has been found to be in ~~posted for~~ violation of ~~§§ 135.021 through 135.022~~ any provision of this Code or the building code related to protection of property, public health or safety more than once in any two year period; or

(5) Has, while vacant, had a nuisance related to the building abated by the City ~~city~~ ~~pursuant to this chapter~~.

(B) Any property which has been declared ~~by the City Manager~~ ~~to include a derelict~~ a neglected building shall be considered in violation of this Chapter until:

(1) The building has been lawfully occupied in compliance with this Code and the building code;

(2) The building has been demolished and the lot cleared and graded under building permit, with final inspection and approval by the City ~~Manager~~; or

(3) The owner has demonstrated to the satisfaction of the City ~~Manager~~ that the property is free of all conditions and in compliance with all notices listed in the definition of a ~~derelict~~ neglected building in this section.

Section 23. Section 135.052 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.52 DANGEROUS STRUCTURES.
Any residential structure which has any or all of the following conditions or defects to the extent that life, health, property, or safety of the public or the structure's occupants are endangered, shall be deemed to be a dangerous structure ~~and such condition or defects shall be abated pursuant to §§ 135.074 and 135.075 of this chapter~~.

(A) High loads. Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than 1 1/2 times the working stress or stresses allowed in the Oregon

Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.

(B) Weakened or unstable structural members or appendages.

(1) Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the Oregon State Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.

(2) Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuaries, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Oregon State Structural Specialty and Fire and Life Safety Code.

(C) Buckled or leaning walls, structural members. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(D) Vulnerability to earthquakes, high winds.

(1) Whenever any portion of a structure is wrecked, warped, buckled, or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; or

(2) Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Oregon State Structural Specialty Code and Fire and Life Safety Code for such buildings.

(E) Insufficient strength or fire resistance. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:

(1) Has in any non-supporting part, member, or portion, less than 50% of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location; or

(2) Has in any supporting part, member, or portion less than 66% of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

(3) This section does not apply to strength required to resist seismic loads.

(F) Risk of failure or collapse.

(1) Whenever any portion or member of appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property; or

(2) Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:

(a) Dilapidation, deterioration, or decay;

(b) Faulty construction;

(c) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

(d) The deterioration, decay, or inadequacy of its foundation.

(G) Excessive damage or deterioration. Whenever the structure exclusive of the foundation:

(1) Shows 33% or more damage or deterioration of its supporting member or members;

(2) 50% damage or deterioration of its non-supporting members; or

(3) 50% damage or deterioration of its enclosing or outside wall coverings.

(H) Demolition remnants on site. Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure.

(I) Lack of approved foundation. Whenever any portion of a structure, including unfilled excavations, remains on a site, including:

(1) Where a structure is not placed on an approved foundation and no valid permit exists for a foundation for that structure; or

(2) For more than 90 days after issuance of a permit for a foundation for a structure, where the structure is not placed on an approved foundation.

(J) Fire hazard. Whenever any structure is a fire hazard as a result of any cause, including but not limited to: dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.

(K) Other hazards to health, safety, or public welfare.

(1) Whenever, for any reason, the structure, or any portion thereof, is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or

(2) Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not

limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.

(L) Public nuisance.

(1) Whenever any structure is in such a condition as to constitute a public nuisance constituting a danger to property, public health or safety under this Code or building code or known to the common law or in equity jurisprudence; or

(2) Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become:

(a) An attractive nuisance, or

(b) A harbor for vagrants or criminals.

(M) Chronic ~~dereliction~~ neglect. Whenever a ~~derelict~~ neglected building, as defined in this Chapter ~~chapter~~, remains unoccupied for a period in excess of six months or period less than six months when the building or portion thereof constitutes an attractive nuisance or hazard to the public.

(N) Violations of codes, laws. Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City ~~city~~, ~~as specified in~~ the Oregon State Structural Code and Fire and Life Safety Code or any law or ordinance of this state or City ~~city~~ relating to the condition, location, or structure or buildings

Section 24. Section 135.053 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.53 ABATEMENT OF NEGLECTED OR DANGEROUS STRUCTURES.
All structures or portions thereof which are determined by the City Manager or designee, Code Hearings Officer, ~~or~~ City Council or a court ~~after inspection by the City Manager~~ to be neglected or dangerous as defined in this Chapter ~~chapter~~ are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, ~~or~~ removal or other action as provided in this Code, including the abatement provisions of Chapter 92. ~~in accordance with the procedures specified herein. If the City Manager determines that a structure is dangerous, as defined by this chapter, the City Manager may commence proceedings to cause the repair, vacation, or demolition of the structure~~

Section 25. Section 135.060 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.60 PERMITS REQUIRED.
No person, ~~firm or corporation~~ shall construct, alter, repair, move, improve, or demolish any residential structure without first obtaining applicable building permits as required by ~~the code~~ this Code and the ~~Oregon Code of Ordinances~~ Oregon State Specialty Codes as adopted by the state and the City ~~city~~.

Section 26. Section 135.061 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.61 INSPECTIONS REQUIRED.
All residential buildings, structures, or other improvements under construction ~~within the scope of this chapter and all construction work for which a permit is required~~ shall be subject to inspection by the Building Official or designee until an occupancy permit or final inspection permit is issued and shall meet all pertinent Oregon State Codes and this code. In addition, any residential structures or improvements are subject to inspection if: consent of the owner is obtained; lawful exigent circumstances exist for entering the property or pursuant to a warrant.

Section 27. Section 135.062 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.62 OCCUPANCY OF RESIDENTIAL PROPERTY AFTER NOTICE OF VIOLATION.
(A) If a notice of violation or order to vacate or demolish ~~of §§ 135.030 through 135.040 or §§ 135.050 through 135.053~~ has been issued, and if the affected structure or any portion thereof is or becomes vacant, it shall be:

(1) Unlawful to re-enter the affected structure or any portion thereof between the hours of 10:00 p.m. and 7:00 a.m. for any use of, or presence in, the affected structure or portion thereof unless authorized, in writing, by the City Manager or designee.

(2) Unlawful to re-enter the affected structure or portion thereof between the hours of 7:00 a.m. and 10:00 p.m. for any purpose other than work associated with the correction of violations noted in the notice of violation.

(3) Except as provide above in division (2), it is unlawful to occupy the affected structure or portion thereof without prior written approval from the City Manager or designee.

(B) ~~In addition to any civil penalties imposed pursuant to § 135.092 (D), and as collected through a municipal lien process, any person unlawfully occupying any such affected structure or portion thereof shall upon conviction be punished by a fine of not more than $500.~~ The City Manager or designee may authorize reentry or occupancy if ~~the City Manager~~ they determine that:

(1) Reentry is reasonably necessary to secure the property, retrieve or secure personal property, maintain the property to avoid further deterioration or to avoid unreasonable hardship;

(2) Occupancy is temporary, the property has approved sanitation and similar essential services, no condition imposing a substantial risk of harm to the occupant or other persons or property exists, and such occupancy is necessary to avoid unreasonable hardship.

The City Manager or designee may impose such conditions on reentry or occupancy as deemed reasonably necessary and appropriate.

Section 28. Section 135.063 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.63 ILLEGAL RESIDENTIAL OCCUPANCY.
When a property has an illegal residential occupancy, including, but not limited to: occupancy of tents,

campers, motor homes, recreational vehicles, or other structures or spaces not intended for permanent residential use, or occupancy of spaces constructed or converted without permit, the use constitutes a nuisance and shall be abated or the structure brought into compliance with the present regulations for a building of the same occupancy.

Section 29. Section 135.064 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.64 INTERFERENCE WITH REPAIR, DEMOLITION, OR ABATEMENT PROHIBITED.
It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

(A) The work of repairing, vacating, warehousing, or demolishing any residential structure;

(B) The abatement of a nuisance pursuant to the provisions of this Chapter ~~chapter~~; or

(C) The performance of any necessary act preliminary to or incidental to such work as authorized by this Chapter ~~chapter~~ or directed pursuant to it.

Section 30. Section 135.070 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.70 ADMINISTRATION AUTHORITY AND RESPONSIBILITY.
The City Manager or designee is hereby authorized to administer and enforce ~~all of~~ the provisions of this Chapter ~~chapter~~. ~~In accordance with approved procedures, the City Manager may employ qualified officers, inspectors, assistants, and other employees as shall be necessary to carry out the provisions of this chapter.~~ The authority of the City Manager or designee ~~to enforce the provisions of this chapter~~ is independent of and in addition to the authority of the City ~~other city officials~~ to enforce the provisions of any other Chapter ~~chapter~~ of the ~~city code~~ Code or state law.

Section 31. Section 135.071 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.71 AUTHORIZATION TO INSPECT.
A. The City Manager or designee is authorized to make inspections of property for the purposes of enforcing this Chapter ~~chapter~~. Wherever practicable ~~possible~~, inspections made by the personnel of the City ~~city~~ Building Department or the appropriate fire or emergency services agency ~~city Fire and Emergency Services~~ will be coordinated to avoid the issuance of multiple or conflicting orders.

B. Absent consent or other exception provided by law, the City prior to entry of a property shall first obtain a warrant as provided in Chapter 139.

Section 32. Section 135.072 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.72 ENFORCING COMPLIANCE.
To enforce any of the requirements of this Chapter ~~chapter~~, the City Manager or designee may gain compliance by:

(A) Causing a citation to be issued as provided in Chapter 138; ~~Instituting an action before the Code Hearings Officer as outlined by Chapter 136;~~

(B) ~~(A)~~ Instituting an action for a civil penalty before the Code Hearings Officer as ~~outlined by~~ provided in Chapter 136; ~~Causing appropriate action to be instituted in a court of competent jurisdiction; or~~

(~~B~~) (C) Causing appropriate action to be instituted in a court of competent jurisdiction; ~~Taking other action as the City Manager or designee, in their discretion, deems appropriate.~~

(D) Declaring that a public nuisance exists or referring the matter to the Code Hearings Officer, to the City Council or to court to consider such declaration.

(E) Taking other action as the City Manager or designee, in their discretion, deems appropriate.

Section 33. Section 135.073 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.73 SECURING PROPERTY. ~~RIGHT OF ENTRY; INSPECTION WARRANTS.~~

~~(A) Right of entry. The City Manager may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any building regulations, or whenever the City Manager has reasonable cause to believe that there exists in any structure or upon any property any condition which makes such property substandard as defined in any building regulations. In the case of entry into area of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:~~

~~(1) Occupied property. If any structure on the property is occupied, the City Manager shall first present credentials and request entry. If entry is refused, the City Manager may attempt to obtain entry by obtaining an inspection warrant.~~

(2) ~~Unoccupied property.~~

~~(a) If the property is unoccupied, the City Manager shall contact the property owner, or other persons having charge or control of the property, and request entry. If entry is refused, the City Manager may attempt to obtain entry by obtaining an inspection warrant.~~

~~(b) If structures on the property are unoccupied, the City Manager shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property and request entry. If entry is refused, the City Manager may attempt to obtain entry by obtaining an inspection warrant.~~

(3) ~~Open, unoccupied property. If any structure on the property is unoccupied and open:~~

If any residential structure ~~on the property~~ is unoccupied and open or unsecured, in violation of the Code, or so as to constitute a nuisance:

(A ~~a~~) The City Manager or designee shall notify the owner by personal service or both certified and first class mail, return receipt requested, of the property's condition and order the owner, or other persons having charge or control of the property, to immediately secure the premises against the entry of

unauthorized persons. If the property is not secured within 15 days from the date notice is sent, the City Manager or designee may seek a warrant or order authorizing the City to secure the property ~~may secure the property as provided in §§ 135.020 through 135.022~~.

(B ~~b~~) If the City Manager or designee has reasonable grounds to conclude ~~believes~~ that a ~~believes that a hazardous condition exists~~ condition presents an immediate danger, the City Manager or designee may immediately secure the premises against the entry of unauthorized persons. ~~as provided in §§ 135.020 through 135.022~~. However, such summary abatement shall be limited to only those actions necessary to eliminate the threat of immediate danger. Following the summary abatement, the City Manager shall notify the owner, or other persons having charge or control of the property, of the condition of the property and request entry. If entry is refused, the City Manager may attempt to obtain entry by obtaining an inspection or abatement warrant.

~~(B) Grounds for issuance of inspection warrants; affidavit.~~

~~(1) Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the property to be inspected or investigated and the purpose for which the inspection or investigations is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or investigations might be frustrated if entry were sought without an inspection warrant.~~

~~(2) Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is probable cause to believe that a condition of nonconformity with any building regulation exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with building regulations.~~

~~(C) Procedure for issuance of inspection warrant.~~

~~(1) Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.~~

~~(2) Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.~~

~~(3) Police assistance. In issuing an inspection warrant on unoccupied property, including abatement warrants pursuant to § 135.075, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the City~~

~~Manager or representative of the department inspecting the property in any way necessary to complete the inspection.~~

(D) ~~Execution of inspection warrant.~~

~~(1) Occupied property. Except as provided in division (D)(2) of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property and warrant or a copy thereof upon request.~~

~~(2) Unoccupied property. In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in division (D)(1) of this section, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonable believed to be in such condition. In such a case a copy of the warrant shall be conspicuously posted upon the property.~~

~~(3) Return. An inspection warrant must be executed within ten working days of its issue and returned to the judge by whom it was is issued within ten working days from its date of execution. After the expiration of the time prescribed by this section, the warrant unless executed is void.~~

Section 34. Section 135.074 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.74 NUISANCE ABATMENT ~~Notice and Order~~.

Except as provided in this Chapter, abatement of a nuisance arising under this Chapter may be ordered and shall proceed as provided in Chapter 92.

~~(A) Notification required.~~

~~(1) Except in the case of summary abatement or immediate danger, if the City Manager finds one or more violations of the provisions of this chapter on a property or adjacent right of way, the City Manager shall notify the property owner to repair, remove or take any other action as necessary to correct the violations. Notification to the property owner shall be accomplished by mailing a notice to the owner, at the owner's address as recorded in the county assessment and taxation records for the property. The notice may be sent via first class mail or certified mail at the City Manager's discretion. Notice to the property owner may also be accomplished by posting notice on the property.~~

~~(2) In addition to the above notice to the property owner, prior notice before towing a disabled vehicle must be provided by mailing a notice to the registered owner and any other persons who reasonably appear to have an interest in the vehicle within 48 hours, Saturdays, Sundays and holidays excluded, after the notice has been posted on the property.~~

~~(B) Content of the notice. The notice shall include:~~

~~(1) The date of posting (if notice was posted at the property);~~

~~(2) The street address or a description sufficient for identification of the property;~~

~~(3) A statement that one or more violations of this chapter exist at the property with a general description of the violation;~~

~~(4) Disclosure that penalties, charges, and liens may result from a failure to remedy the violations, and in the case of a disabled vehicle, a statement that the city intends to tow and remove the vehicle if the violation is not corrected;~~

~~(5) Specification of a response period during which the property may be brought into compliance with this chapter before penalties, charges, or liens will be assessed; and~~

~~(6) Disclose the owner's right to appeal the findings of the notice of violation and a description of the time limits for requesting an administrative review or a hearing, as described in §§ 135.100 through 135.102 of this chapter.~~

~~(C) Notification by mail. An error in the name of the property owner or address listed in the county assessment and taxation records for the property shall not render the notice void, but in such case the posted notice, if a notice was posted on the property, shall be deemed sufficient.~~

~~(D) Notification following summary abatement. When summary abatement is authorized by this chapter, the decision regarding whether or not to use summary abatement shall be at the City Manager's discretion. In the case of summary abatement, notice to the owner or occupant of the property prior to abatement is not required. However, following summary abatement, the City Manager shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a notice of summary abatement shall be mailed to the property owner. The notice of summary abatement shall include:~~

~~(1) The date the nuisance on the property was abated;~~

~~(2) The street address or description sufficient for identification of the property;~~

~~(3) A statement of the violations of Chapter 135 that existed at the property and were summarily abated;~~

~~(4) Disclosure that penalties, charges and liens will result from the summary abatement;~~

~~(5) Disclosure of the owner's right to appeal the findings of the notice.~~

~~(E) Compliance inspections and penalties. The City Manager shall monitor compliance with the notice through periodic tracing and inspection. Once a notice has been mailed, the owner shall be responsible for all enforcement penalties associated with the property, as described in §§ 135.090 through 135.093, until the violations are corrected and the City Manager has been so notified. Except in the case of summary abatement, whenever the owner believes that all violations listed in the first or any subsequent~~

~~notice of violation have been corrected, they shall notify the City Manager.~~

~~(F) Time limits for repair. The City Manager may set time limits in which the violations of this chapter are to be corrected. Failure to comply with the time limits shall be a violation of this chapter.~~

~~(G) Effective date of notice. All notices served pursuant to this section shall be considered served as of the date and time of mailing the notice described in divisions (A) and (C) of this section.~~

~~(H) Information filed with county recorder. If the City Manager finds violations of this chapter on any property, the City Manager may record with the County Recorder information regarding City code violations and possible liens on the property.~~

Section 35. Section 135.075 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.75 ~~Nuisance Abatement;~~ WARRANTS.

(A) Pursuant to Chapter 139 or any other provision of law, the City Manager or designee may seek an administrative, inspection, demolition, or search warrant as necessary to enforce the terms of this Chapter and such warrants or orders as are necessary to abate a nuisance arising under this Chapter.

~~Abatement. If, within the time limit set by the City Manager in the notice of violation, any nuisance described in the notice has not been removed and abated, or cause shown, as specified in §§ 135.100 through 135.102 of this chapter, why such nuisance should not be removed or abated, or where summary abatement is authorized, the City Manager may cause the nuisance to be removed and abated, including disposal in an approved manner.~~

(B) Unless provided otherwise in the order for City abatement, including for demolition, the City Manager or designee may cause the nuisance items or debris to be removed pursuant to the order and disposed of in an approved manner, in the City Manager's or designee's sole discretion, finds that the fair and reasonable value of the items or debris would be less than the cost of storing and selling the items. In making the above determination, the City Manager or designee may include in the costs of sale the reasonable cost of removing items or debris to a place of storage, of storing the items of resale, of holding the resale including reasonable allowances for costs of staff, and any other reasonable and necessary expenses of holding a sale.

~~Warrants. The City Manager may request a judge from a court of competent jurisdiction to issue a nuisance abatement warrant whenever entry onto private property is necessary to remove and abate any nuisance, or whenever the City Manager has reasonable cause to believe that there exists in any building or upon any property any nuisance which makes such property substandard as defined in any building regulations.~~

(C) ~~Grounds for issuance of nuisance abatement warrants; affidavit.~~

~~(1) Affidavit. A nuisance abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal and abatement of the nuisance, the building or property to be entered, the basis upon which cause exists to remove or abate the nuisance, and a statement of the~~

general types and estimated quantity of the items to be removed or conditions abated.

(2) Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for removing and abating nuisances are satisfied with respect to any building or upon any property, or if there is cause to believe that a nuisance violation exists, as defined in this chapter, with respect to the designated property.

(D) Procedure for issuance of a nuisance abatement warrant.

(1) Examination. Before issuing a nuisance abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

(2) Issuance. If the judge is satisfied that cause for the removal and abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

(3) Police assistance. In issuing a nuisance abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and remove and abate the nuisance.

(E) Execution of nuisance abatement warrants.

(1) Occupied property. Except as provided in division (E)(2) of this section, in executing a nuisance abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

(2) Unoccupied property. In executing a nuisance abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in division (E)(1) of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the nuisance abatement warrant shall be conspicuously posted on the property.

(3) Return. A nuisance abatement warrant must be executed within ten working days of its issue and returned to the judge by whom it was issued within ten working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

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

Section 36. Section 135.076 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.76 VACATING OR DEMOLISHING STRUCTURES.

(A) Any structure declared to be a nuisance due to ~~found to be in~~ any violations of this Code ~~§§ 135.030 through 135.040~~ to such an extent as to be a substantial hazard to occupants or the public or is declared a dangerous structure ~~under §§ 135.050 through 135.053~~ may be ordered vacated, secured, and maintained against entry or ordered demolished ~~by order of the Code Hearings Officer~~.

(B) Notice of the order shall be provided in the same manner as an order for abatement and shall be posted in a prominent location on the property.

~~If the City Manager finds violations to the extent that an immediate danger is posed to the health, safety, or welfare of the occupants, or that of the general public, the City Manager may order part of the structure, or all of the structure, to be vacated or demolished forthwith, if in the City Manager's discretion, circumstances are found that do not allow time for prior application to the Hearings Officer.~~

~~(1) The owner or any tenant of the property, who has been affected by the City Manager's determination to vacate may appeal that determination to the Code Hearings Officer by following the procedure as outlined by the city code.~~

~~(2) Upon receipt of a request for a hearing the Code Hearings Officer shall schedule and hold an appeal hearing within with ten days after the receipt of the request.~~

(C) Except as provided in Section 135.078, an order shall provide a minimum of 30 days to vacate and 60 days to demolish a structure. The order may impose interim requirements to mitigate health or safety risks to the extent practicable. If the order is not complied with, the City may obtain a court order or warrant authorizing the City to enter the property to carry out vacation, demolish the structure or otherwise enforce the order.

~~Upon vacation of the structure a notice shall be posted at or on each exit of the building. Whenever such notice is posted, the City Manager shall include in such notice a statement declaring the building unsafe to occupy and specifying the conditions that necessitate the posting.~~

(D) Except as provided in the order, or as ~~Unless~~ authorized by the City Manager or designee, it is a nuisance and unlawful for any person knowingly to enter or remain in any structure that ~~the City Manager~~ has been ordered vacated. ~~pursuant to this section. In addition to any civil penalties imposed pursuant to §§ 135.090 through 135.093, any person knowingly entering or remaining in such a structure shall upon conviction be punished by a fine of not more than $500.~~

Section 37. Section 135.077 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.77 SUMMARY VACATION OR DEMOLITION. ~~REFERRAL TO THE HEARINGS OFFICER FOR REPAIR OR DEMOLITION OF DANGEROUS STRUCTURES.~~

If the City Manager or designee concludes that the condition of a property is such that permitting occupancy or permitting the structure to remain during the periods set forth in Section 135.076 (C) imposes an immediate danger to the occupants, the public or nearby property, the City Manager or designee may seek a court order directing that the property or structure be immediately vacated or demolished as provided in such order, or other steps taken, including abatement by the City.

~~At any time after the City Manager identifies a property as containing a dangerous structure and has notified the owner as specified in § 135.074, the City Manager may cause an action to be instituted before the Code Hearings Officer as provided in the city code.~~

Section 38. Section 135.078 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.78 RELOCATION EXPENSES.

An order to demolish or vacate a structure may include a requirement that the owner pay reasonable relocation costs. In making such a determination, consideration shall be given to whether the condition giving rise to the order was caused by the occupants and not within the reasonable ability of the owner to prevent or mitigate. If relocation costs are ordered and not paid by the owner, the City may elect to pay such costs and include them as a cost of abatement to be charged against the owner and property.

~~DEMOLITION; WARRANTS.~~

~~(A) Abatement. If, within the time limit set by the Hearings Officer's order for demolition, the dangerous structure described in the order has not been removed and abated, or cause shown, as specified in §§ 135.100 through 135.102 of this chapter, why such dangerous structure should not be removed or abated, or where summary abatement is authorized, the City Manager may cause the dangerous structure to be removed and abated, including disposal in an approved manner.~~

~~(B) Warrants. The City Manager may request any judge from a court of competent jurisdiction to issue a demolition warrant whenever entry onto private property is necessary to demolish a dangerous structure.~~

(C) ~~Grounds for issuance of demolition warrants; affidavit.~~

~~(1) Affidavit. A demolition warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the demolition of the dangerous structure, the building or property to be entered, the basis upon which cause exists to demolish the dangerous structure and a general statement describing the structure to be demolished. In addition, the affidavit shall contain a statement describing the conditions under which the demolition is to be completed, including completion of all work on the property within a 30-day period.~~

~~(2) Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards are satisfied with respect to the demolition of the dangerous structure.~~

(D) ~~Procedure for issuance of a demolition warrant.~~

~~(1) Examination. Before issuing a demolition warrant, the judge may examine the application and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.~~

~~(2) Issuance. If the judge is satisfied that cause for the demolition of any dangerous structure exists and that the other requirements for granting the application are satisfied, the judge shall issue the demolition warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement describing the structure to be demolished and the work to be performed. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.~~

~~(3) Police assistance. In issuing a demolition warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and demolish the dangerous structure.~~

(E) ~~Execution of demolition warrant.~~

~~(1) Execution. In executing the demolition warrant, the person authorized to execute the warrant need not inform anyone of the person's authority or purpose but may promptly enter the designated property if it is or at the time reasonably appears to be a) unoccupied, or b) not in the possession of any person. A copy of the demolition warrant shall be conspicuously posted on the property.~~

~~(2) Return. A demolition warrant must be executed with ten working days of its issuance by the judge. The authority to enter into the property and perform the demolition work shall continue for a period of up to 30 days after the date of execution, unless the judge extends this time before it has expired. The executed warrant shall be returned to the judge upon the completion of the demolition or the expiration of the authorized time, whichever occurs first. If the warrant is not executed within ten days after the issuance by the judge, the warrant shall be void.~~

~~(F) Disposal of demolition debris. The City Manager may cause the debris to be removed pursuant to the demolition warrant and disposed of in an approved manner whenever the City Manager, in the City Manager's sole discretion, finds that the fair and reasonable value of the debris would be less than the cost of storing and selling the items. In making the above determination, the City Manager may include in the costs of sale the reasonable cost of removing debris to a place of storage, of storing the items of resale, of holding the resale including reasonable allowances for costs of staff, and any other reasonable and necessary expenses of holding a sale.~~

Section 39. Section 135.079 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.79 EXCEPTIONS.

(A) The City Manager or designee may grant an exception when the enforcement of the requirements of this Chapter would cause undue hardship to the owner or occupants of the affected property, or whenever the City Manager or designee deems it necessary in order to accomplish the purpose of this Chapter ~~chapter~~.

(B) To carry out the intent of this section, the City Manager or designee shall establish written policies in the form of waivers to explain the exceptions that are available to property owners. The waivers shall include the following information:

(1) An explanation of the purpose of the waiver;

(2) A list of the requirements the owner must meet in order to qualify for the waiver;

(3) An explanation of the period of time during which the waiver will be in effect;

(4) A list of the actions the owner must perform to fulfill their responsibilities to maintain the waiver and to prevent the waiver from being canceled.

(C) The owner must apply for a waiver in writing.

Section 40. The following subtitle of Chapter 135 of the Hermiston Municipal Code is amended to read:

VIOLATIONS COSTS AND PENALTIES

Section 41. Chapter 135 of the Hermiston Municipal Code is amended by adding section 135.080 to read:

135.80 VIOLATIONS
In addition to constituting a nuisance, violation of this Chapter is unlawful.

(A) Failure to comply with §§ 135.030 to 135.034, § 135.035, § 135.036, and § 135.039, or 135.062 constitutes a Class C violation.

(B) Failure to comply with any other provision of this Chapter is a Class B violation.

(C) Failure to comply with a final order to abate, vacate or demolish, or to substantially comply with any other final order under this Chapter is a Class B violation.

(D) Each day of failure to comply constitutes a separate violation.

Section 42. Section 135.090 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.90 ~~CITY MANAGER SHALL IMPOSE PENALTIES.~~ ENFORCEMENT FEE.

~~In order~~ In addition to any other remedy provided by this Code, to defray the costs of enforcement of, and to encourage compliance with this Chapter ~~chapter~~, the City Manager or designee shall impose an enforcement fee, established by resolution, ~~penalties~~ on those properties which are found to be in violation of this Chapter ~~chapter~~.

Section 43. Section 135.091 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.91 ENFORCEMENT FEES FOR HOUSING AND DANGEROUS AND ~~DERELICT~~ NEGLECTED BUILDINGS.

(A) The City ~~city~~ shall charge a monthly ~~penalty in the form of a monthly~~ enforcement fee for each property found in violation of ~~§§ 135.030 through 135.040 or §§ 135.050 through 135.053 of~~ this Chapter ~~chapter~~ that meets the following conditions:

(1) The property is a subject of a final determination of a ~~notice of~~ violation of this Chapter ~~chapter as described in § 135.074~~;

(2) A response period of 30 days has passed since the effective date of the initial notice of violation; and

(3) The property remains out of compliance with the initial notice of violation or any subsequent notice of violation. This includes but is not limited to continued occupancy in violation of an order to vacate.

(B) The amount of the monthly enforcement fee shall be charged according to the Property Maintenance Regulations Fee Schedule as approved by resolution of the City Council. If all violations are not corrected within six months from the date of the initial notice of violation, subsequent enforcement fees shall be twice the amount stated in the Property Maintenance Regulations Fee Schedule as approved by the City Council.

(C) Whenever the owner believes that all violations ~~listed in the first or any subsequent notice of violation~~ have been corrected, ~~they~~ the owner shall so notify the City Manager or designee. Upon receipt of such notice, the City Manager or designee shall promptly schedule an inspection of the property and shall notify the owner if any violations remain uncorrected.

(D) Once monthly enforcement fees begin, they shall continue until all violations ~~listed in the first or any subsequent notice of violation~~ have been corrected, inspected and approved.

(E) When a property meets the conditions for charging an enforcement fee as described in this section, the City Manager or designee shall file a statement with the City Finance Director that identifies the property, the amount of the monthly fee, and the date from which the charges are to begin. The Finance Director shall then:

(1) Notify the property owner of the assessment of the enforcement fees;

(2) Record a property lien in the Docket of City Liens;

(3) Bill the property owner monthly for the full amount of enforcement fees owing, plus additional charges to cover administrative costs of the City Auditor; and

(4) Maintain lien records until:

(a) The lien and all associated interest, penalties, and costs are paid in full; and

(b) The City Manager or designee certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

(F) A notice of imposition of an enforcement fee, or notice issued pursuant to 135.091 (C) may be appealed to the Code Hearings Officer as provided in Chapter 136.

Section 44. Section 135.092 of Chapter 135 of the Hermiston Municipal Code is repealed:

~~135.92 COSTS AND PENALTIES FOR ABATEMENT OF NUISANCES, DISABLED VEHICLES, AND RE-OCCUPANCY IN VIOLATION.~~

~~(A) Nuisances.~~

~~(1) Whenever a nuisance is abated by the city, the City Manager shall keep an accurate account of all expenses incurred for each nuisance abated including but not limited to abatement costs, civil penalties, administrative costs, recorders fees and chapter report charges according to the Property Maintenance Regulations Fee Schedule as approved by City Council.~~

~~(2) When the city has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the city within two consecutive calendar years concerning the real property, owned by the same person, an additional civil penalty according to the Property Maintenance Regulations Fee Schedule shall be added to the costs, charges and civil penalties provided for in division (A)(1) of this section. The additional civil penalty shall be imposed without regard to whether the nuisance abated by the city involved the same real property or are of the same character.~~

~~(3) Costs and penalties resulting from nuisance abatement shall be assessed as a lien upon the real property as provided in division (D).~~

~~(B) Disabled Vehicles.~~

~~(1) Whenever a vehicle is removed from real property by the city, the City Manager shall keep an accurate account of all expenses and penalties incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, recording fees, and chapter report charges according to the Property Maintenance Regulations Fee Schedule as approved by the City Council.~~

~~(2) Whenever a disabled vehicle, which has been tagged by the city, is removed from real property and~~

~~placed on the public right-of-way, the owner of the real property shall be responsible for that vehicle. The City Manager shall remove the disabled vehicle from the right-of-way and keep an accurate account of all expenses and penalties incurred for each disabled vehicle removed including but not limited to abatement costs, civil penalties, administrative costs, recording fees and chapter report charges according to the Property Maintenance Regulations Fee Schedule as approved by the City Council.~~

~~(3) Costs and penalties resulting from the abatement of disabled vehicles shall be assessed as a lien upon the real property as provided in division (D).~~

~~(C) Occupancy of property after notice of violation.~~

~~(1) Whenever an owner causes or permits a vacant structure or portion thereof to be occupied in violation of this chapter, a penalty according to the Property Maintenance Fee Schedule as approved by the City Council shall be imposed per structure or portion thereof.~~

~~(2) Costs and penalties resulting from the occupancy of property after notice of violation shall be assessed as a lien upon the real property as provided in division (D).~~

~~(D) When a property meets the conditions for assessment of costs and/or penalties as described in divisions (A), (B), or (C) above, the city code enforcement officer shall file a statement of such costs and/or penalties with the Finance Director. Upon receipt of the statement, the Finance Director. Upon receipt of the statement, the Finance Director shall mail an assessment notice to the property owner. The notice shall include the amount due plus charges to cover the administrative costs of the City Finance Director. At the same time the notice is mailed by the Finance Director, the Finance Director shall enter the amount due or the amount of the unpaid balance, plus charges to cover the administrative cost of the City Finance Director, in the Docket of City Liens which shall thereafter constitute a lien against the property. The property owner is responsible for paying all liens assessed against the property.~~

Section 45. Section 135.093 of Chapter 135 of the Hermiston Municipal Code is repealed:

~~135.093 BUILDING DEMOLITION COSTS AND PENALTIES.~~

~~(A) Whenever a building is demolished by the city, the City Manager shall keep an accurate account of all expenses incurred for each building demolished, including but not limited to abatement costs, civil penalties plus administrative costs according to the Property Maintenance Regulations Fee Schedule as approved by the City Council.~~
~~(B) Costs and penalties resulting from the demolition by the city of any structure pursuant to this chapter plus charges to cover the administrative costs of the City Finance Director shall be assessed as a lien upon the real property on which the structure was located pursuant to the provisions of the code.~~

Section 46. Section 135.100 of Chapter 135 of the Hermiston Municipal Code is amended to read:

135.100 ~~ADMINISTRATIVE REVIEW~~ APPEAL.

A person receiving a notice or order from the City under this Chapter may appeal to the Code Hearings Officer as provided in Chapter 136.

~~(A) Whenever an owner has been given a notice pursuant to this chapter and has been directed to make any correction or to perform any act and the owner believes the finding of the notice was in error, the owner may have the notice reviewed by the City Manager. If a review is sought, the owner shall submit a written request to the City Manager within 15 days of the date of the notice. Such review shall be conducted by the City Manager. The owner requesting such review shall be given the opportunity to present evidence to the City Manager. Following the review, the City Manager shall issue a written determination.~~

~~(B) Nothing in this section shall limit the authority of the City Manager to initiate a proceeding under the code.~~

Section 47. Section 135.101 of Chapter 135 of the Hermiston Municipal Code is repealed:

135.101 ~~APPEALS TO THE CODE HEARINGS OFFICER.~~
~~A determination issued pursuant to § 135.090 may be appealed to the Code Hearings Officer as provided by the code.~~

Section 48. Section 135.102 of Chapter 135 of the Hermiston Municipal Code is repealed:

135.102 ~~FURTHER APPEALS.~~
~~All appeals from the Code Hearings Officer's determination pursuant to § 135.091 shall be by writ of review as authorized by ORS 34.010 through 34.100.~~

Section 49. Effective date. This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by the Common Council this 8th day of November 2021.

SIGNED by the Mayor this 8th day of November 2021.

_____
Dr. David Drotzmann, Mayor

ATTEST:

_____
Lilly Alarcon-Strong, CMC, City Recorder