

# The Code Enforcement Ordinance

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## **Section 1. Purpose and Policy**

### Authority

This Ordinance is adopted pursuant to the authority granted to general law counties by ORS Chapter 203 for the purpose of providing procedures to be used in enforcing the Morrow County Code. It is a violation under ORS 203.065 to fail to comply with any provision or requirement of a County ordinance, order, permit approval, consent agreement, enforcement order or state statute which the County has the authority to enforce.

### 1.100 Purpose

The purpose of this Ordinance is to provide for the welfare, safety and health of the citizens of Morrow County by establishing a procedure wherein the ordinances of Morrow County and State Statute can be enforced. In order to ensure timely and uniform enforcement of County ordinances and to maintain public confidence and certainty in County ordinances, it is necessary to enact the enforcement procedures in this Ordinance.

### 1.200 Application

County policies and ordinances to be enforced under this Ordinance are those contained herein and the Morrow County Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, Solid Waste Management Ordinance to the extent it is not enforced under specific enforcement procedures contained therein, and city comprehensive or development or land use ordinances co-adopted by the County pursuant to a Joint Management Agreement. A violation in any provision in any chapter of a Morrow County Ordinance that does not have an enforcement procedure in that Ordinance to dispose of a violation is subject to this Ordinance.

Except for a violation which unmistakably exists and imminently endangers health or property, a complaint shall be first placed against any applicable permit approved by the County under the Morrow County Zoning Ordinance, Subdivision Ordinance or Solid Waste Management Ordinance. This Ordinance shall apply when the permit language does not address violations relating to the particular complaint.

### 1.300 Other Applications

A violation of an Oregon State Statute (ORS) or Oregon Administrative Rule (OAR) that is not adopted by this Ordinance may be enforced in the manner provided in that statute or rule by a person having lawful authority to enforce such statute or rule.

## **Section 2. Definitions**

For the purpose of this Ordinance the following definitions apply:

Abandoned vehicle means a vehicle that is disabled, abandoned, parked or left standing unattended upon the right-of-way of any county road, state highway, or upon any street or alley over which Morrow County has jurisdiction, or upon any county property.

Abatement means any action on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to, demolition, removal, repair, boarding and securing or replacement of property.

Attractive Nuisance is any negligent action or condition of property which would be both attractive and dangerous to curious children, or attract an infestation.

Chronic Dereliction means whenever a derelict building remains unoccupied for a period in excess of 6 months or a period less than 6 months when the building or portion thereof constitutes an attractive nuisance or hazard to the public.

Chronic Offender means a responsible party who has not complied with an order of the Code Enforcement Officer or Justice of the Peace for any number of violations within twelve consecutive months.

Citation, Complaint & Summons means the official form which charges a person(s) with a violation of a County Ordinance and requires that person to appear before the Court to answer the charges specified.

Code Enforcement File means the public record retained in the Morrow County Sheriff's Office which shall contain all documents, reports, evidence and other information concerning a particular complaint or enforcement action.

Code Enforcement Officer means the person(s) whose primary duties are to conduct code investigations, issue stop work or stop use orders, issue citations, and generally initiate and prosecute enforcement actions under this Ordinance. Enforcement officers have all authority to carry out the purposes of this Ordinance and the provisions of the Code under their authority. These persons may include any law enforcement officer, Morrow County Code Enforcement Officer, Public Health Director, Solid Waste Administrator, Building Official, Weed Control Supervisor, and the Morrow County Planning Director.

Complainant means a person(s) who initiates a complaint against another person(s) alleging a violation of a County ordinance which is authorized by a County Court order to be enforced under this Ordinance.

Consent Agreement means a written agreement signed by the responsible party(s) (as defined below) and the Code Enforcement Officer stating the specific steps or conditions which the responsible party(s) must take or meet to cure a violation of a County ordinance.

Debris means the remains of something broken down or destroyed, including, but not limited to, scrap metal, paper, plastic or wood, pieces of asphalt, concrete, lumber or other building supplies or yard clippings or cuttings of plant material.

Derelict building means any building, structure, or portion thereof which is unoccupied and meets any of the following criteria or any residential structure which is at least 50% unoccupied and meets any of the following criteria: 1) Has been ordered vacated by a process outlined within this Ordinance; 2) Has been issued a correction notice by a process outlined within this Ordinance; 3) Is unsecured; 4) Is boarded; 5) Has been posted for violation of any portion of this Ordinance more than once in any two year period; or 6) Has, while vacant, had a nuisance abated by the County pursuant to this Ordinance.

Garbage, Trash or Waste means all useless or discarded putrescible and non-putrescible materials, including but not limited to rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless

or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste.

Hazardous Vehicle means a vehicle left in a location or condition such as to constitute an immediate threat to the safety of vehicular or pedestrian traffic and as defined in Oregon State Highway Division Administrative Rule OAR 734-020-0147.

Infestation means to be overrun to an unwanted degree or in a troublesome manner, especially as predatory animals, insects, or vermin do.

Invasive Species means an organism that causes ecological or economic harm in a new environment where it is not native.

Junk means broken, discarded or accumulated objects including but not limited to appliances, building supplies, furniture, vehicles, or parts of vehicles. This definition is not meant to include "bone yard" as defined in the Solid Waste Management Plan.

Justice of the Peace (JP) means the elected official in Morrow County who handles minor legal issues such as traffic offenses and code enforcement violations.

Livestock means domestic animals of types customarily raised or kept on a farm for profit or other purposes.

Motor Vehicle means a vehicle that is self propelled or designed for self propulsion.

Noise Nuisance means any sound which a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.

Noxious Weed means any plant which is determined by the County Court to be injurious to public health, crops, livestock, land or other property. (See Appendix A)

Penalty means a fine assessed according to the schedule set forth in the applicable ordinance(s) against a responsible party(s) upon a finding by the Justice Court that a violation has occurred.

Person means any public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof.

Person in Charge of Property means an owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of property.

Place or Property means any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

Public Safety Officer means a peace officer, Morrow County Code Enforcement Officer, fire prevention inspector, firefighter, or any person who, during an emergency formally declared by the Morrow County Court, has been deputized by and is acting pursuant to the orders of the Morrow County Sheriff.

Responsible Party/Violator means an owner, title holder, contract seller, contract buyer, possessor or user of the land upon which a violation is occurring, or the person(s) responsible for the action, conduct, or omission which constitutes a violation of a County ordinance, may each be held responsible for a violation of a County ordinance.

Stop Work or Stop Use Order means a formal written order issued by the Code Enforcement Officer or Building Official directing that any work, action or use is in violation of a County ordinance, must stop immediately. Such an order must be issued according to the requirements of Section 12 of this Ordinance.

Street or Roadway means that portion of the road right-of-way developed for vehicular traffic.

Unsafe Building means any building or structure where defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered.

Vehicle means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

Violation means an offense created by an ordinance of Morrow County or the State which is punishable by a fine or punishment in addition to a fine but does not provide that the offense is punishable by a term of imprisonment.

Weeds of Economic Importance means weeds which result in economic impact and which are identified by the Weed Advisory Board and approved by County Court as appropriate targets for intensive control or eradication as feasible. (See Appendix B)

### **Section 3. Jurisdiction**

This Ordinance shall apply within those areas located inside Morrow County which are situated outside the city limits of an incorporated city. The Circuit and Justice Courts for the State of Oregon for the County of Morrow have concurrent jurisdiction over any and all violations of this Ordinance.

### **Section 4. Motor Vehicles**

#### **4.100 Abandoned Vehicles**

An abandoned vehicle may be taken into immediate custody and removed by an appropriate authority. The Morrow County Sheriff has all authority to enforce ORS 819.100 - 819.200.

#### **4.200 Disposal of Vehicles at the Request of a Person in Lawful Possession (junk slips)**

- A. A person may make a request to the Morrow County Sheriff's Office, or designee, to dispose of a vehicle that is on the private property of the person and that is appraised at a value of \$500.00 or less, as determined by a holder of a certificate issued under ORS 819.230, if the person is in lawful possession of the vehicle. For the purposes of this subsection, a person need not have the certificate of title to be in lawful possession of the vehicle.
- B. When the Sheriff's Office chooses to dispose of a vehicle under Section A above, the Sheriff's Office shall do all of the following:

1. Photograph the vehicle.
  2. Verify that the person is in lawful possession of the vehicle.
  3. Provide notification on a "junk slip" document recording the vital information of an abandoned or accumulated vehicle to the person requesting the disposal and the Department of Motor Vehicles of all of the following:
    - a. The name and address of the person requesting the disposal;
    - b. The vehicle identification number;
    - c. The appraised value of the vehicle;
    - e. The name and address of the authority disposing of the vehicle.
  4. Dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110.
- C. The Sheriff's Office may charge the person requesting the disposal a fee to dispose of the vehicle.
- D. Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights. No title shall further be issued upon the vehicle, including salvage title.
- E. In lieu of submitting ownership or other title documents for the vehicle, the Sheriff's Office may submit to the dismantler a copy of the junk slip notification provided to the Department of Motor Vehicles under subsection B. of this section.

#### 4.300 Motor Vehicle Impound

A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in Oregon Statute may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer.

#### 4.400 Towing and Storage Liens

The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS 87.142 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is \$1,000.00 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220. Evidence regarding market value from any person who deals, trades, buys, or disposes of such vehicles in the ordinary course of such person's business shall be sufficient to establish market value.

#### 4.500 Suspension of Notice and Hearing Requirements

In all cases where removal, towing or impoundment of any vehicle has been performed by persons engaged in emergency operations after formal declaration of emergency by the Morrow County Court, all notice and hearings requirements shall be suspended and held in abeyance until abatement of the conditions creating the emergency reasonably allow for providing notice and hearing.

#### 4.600 Vehicles as attractive nuisances

No person in charge of property may permit, or no person may cause to exist, vehicles or parts thereof, which could cause an attractive nuisance or infestation.

## Section 5. Nuisances

### 5.100 Nuisances

No person in charge of property may permit, or no person may cause to exist, any thing, substance, or act that is an imminent threat to the public health, safety, or welfare. An imminent nuisance may be summarily abated as provided in Section 10.

### 5.200 General Nuisance

- A. All accumulation of garbage, waste and debris must be in accordance with the requirements of the Solid Waste Ordinance. No person in charge of property may permit, or no person may cause to exist, accumulation of debris, garbage, junk, or animal excrement that are not removed within a reasonable time, except as follows:
1. junk may be accumulated if authorized by permit or business license.
  2. yard cuttings, other than grass clippings, may be accumulated on property owned or leased by the person for burning at the first available burn season. It is the landowners' responsibility to obtain any required burning permits.
  3. yard cuttings and other organic material may be accumulated on property owned or leased by a person for composting, if maintained in a manner that does not attract vermin and does not produce an offensive odor.
  4. garbage may be accumulated in order to be hauled by a licensed solid waste hauler or to be taken by the person to an authorized depository if the garbage is secured within a fly-proof, rodent-proof, water-tight covered container that is kept clean and in good repair, and is removed within a reasonable time.
  5. animal excrement from livestock may be accumulated for farm or agricultural purposes as long as it does not become a danger to health or safety.
- B. Weeds. The owner or person in charge of property shall not permit the growth, seeding or spreading of weeds as a fire danger. Local Fire Chiefs and Marshals are recognized as the enforcement authority for fire hazards. Additionally, Morrow County is declared a Weed Control District and is further regulated as characterized by Section 9 of this Code.
- C. No person may cause to exist vegetation that:
1. is a hazard to pedestrian use of a public sidewalk or is a hazard to bicycle or vehicular use of a public or private street by impeding passage or vision. The hazards include, but are not limited to:
    - a. Vegetation that encroaches upon, or overhangs lower than 8 feet, a public sidewalk or other pedestrian way, or encroaches upon or overhangs lower than 10 feet, a public or private street.
    - b. Vegetation that impedes motorist, bicyclist or pedestrian views of traffic, traffic signs or signals, street lights or name signs, or other safety fixtures or markings placed in the public way.
  2. is a hazard to the public or property on or near the property where the vegetation is located;
  3. impedes access to or use of any public facility;

4. obstructs drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins, or culverts;
  5. has roots that have entered a sewer or water line, main or system, and that stops, restricts or retards the flow of sewage or water, or damages the pipes or connectors; has roots that have cracked or displaced a sidewalk, curb or street;
  6. extends across a property line. Tree and shrub branches or limbs may extend across a property line when by condition or location they do not create a hazard to the health, safety or well-being of the general public.
- D. Trees. The owner or person in charge of property shall not permit shrubs or trees to interfere with the use of a sidewalk or roadway, or obstruct a driver's view of an intersection or of traffic upon streets approaching an intersection, or otherwise create a hazard to the public. Such owner or person in charge of property shall also trim the trees so that the minimum clearance of the overhanging part of the tree is eight feet above the sidewalk and eleven feet above the roadway.
- E. No person in charge of property may permit or no person may cause to exist on private or public property accessible containers with a capacity of more than one cubic foot and a door or lid that locks or fastens when closed and that cannot be easily opened from the inside.
- F. No person in charge of property may permit or no person may cause to exist a well, cistern, cesspool, pit, quarry, excavation, swimming pool, or other hole of a depth of four feet or more, unless;
1. it is fenced or securely covered; or
  2. the excavation is part of an authorized construction project and during the course of construction reasonable safeguards are maintained to prevent injury.
- G. No person in charge of property may permit or no person may cause to exist on a sidewalk or public or private street adjacent to the property, any dumping or storage of dirt, sand, rocks, gravel, lawn clippings, bark dust, lumber or other similar material.
- H. No person in charge of a development project may permit, or no driver of a vehicle may cause, any deposit of dirt, mud, lumber or other material or object on any street or sidewalk.
- I. Unlawful Posting of placards.
1. No person may attach or cause to be attached an advertisement, bill, placard, poster or sign upon real or personal property, whether public or private, without first securing permission from the owner or person in control of the property.
  2. This section shall not be construed as an amendment to or a repeal of any county development code regulation of the use and location of signs.

5.300 A general nuisance may be abated as provided in Section 10.

## **Section 6. Housing as a Public Nuisance**

### **6.100 Authority**

Whenever the County finds that there exists in the County dwellings, buildings or structures which are unfit for human habitation due to unsanitary conditions, dilapidation or other defects detrimental to the public health, welfare and safety of Morrow County residents the County may exercise its authority under State Statute to repair, close or demolish these dwellings in the manner provided in this Section and in State Statute.

For the purposes of aiding the Code Enforcement Officer, the County will, pursuant to this Section, utilize the authority given to the County Public Health Director in ORS 431.150 in all matters pertaining to the public health and the authority given to the Building Official in Oregon Administrative Rule 918-480-0140(5) to revoke a certificate of occupancy of a residential dwelling in violation of applicable law that poses a threat to health and safety. The Fire Chief of an appropriate Fire Protection District will have all authority to enforce the Oregon Fire Code in order to protect the public safety and health of the citizens of Morrow County.

### **6.200 Purpose and Policy**

It is the purpose of this Section to address the matter of concern in the County with particular, although not widespread, instances of unsafe, unsanitary and dilapidated housing that exist and are detrimental to the public health, welfare and safety. It is not the purpose of this Section to constrain rural, isolated dwellings such as cabins built for recreational use but may be applied if such a dwelling is occupied for a full calendar year. It shall be the policy of the County to:

- Endeavor to educate responsible parties when a health and safety issue with housing becomes apparent. It is recognized that not all landlords and tenants are aware of their resources and responsibilities according to Oregon State law.
- Provide clear evidence and health benchmarks as provided by this Section and the expertise, experience and authority of the Code Enforcement Officer, the Public Health Director, the Building Official, Fire Officials and other public officials whose work, training and lawful authority allow for enforcement of health and safety issues.
- Identify and abate chronic violations. Properties that have had ongoing or repeated violations and have been identified as chronic offenders are especially at risk for County action. County actions are meant to encourage property owners to comply. Lack of compliance may lead to additional penalties.

### **6.300 Nuisance Housing**

Any structure that is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence or 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 Morrow County, the Oregon State Structural Code, the Fire and Life Safety Code, or any local law or ordinance relating to the condition, location, or structure of buildings.

### **6.350 Dangerous Buildings.**

- A. 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, or
- c. As to enable persons to resort thereto for the purpose of committing unlawful or immoral acts;
- B. Whenever a structure has become chronically derelict;
- C. Unsafe buildings and burned or partially burned structures that have become unsafe or dangerous; or
- D. When deemed dangerous by the Building Official or local Fire Marshall.

6.360 Under the authority provided in Oregon Statute, the County may prohibit the use or occupancy of any property used for the purposes of prostitution, gambling or illegal use of controlled substances.

6.400 Benchmarks.

A tenant, property owner, or both, can be considered a Responsible Party for meeting the requirements of this Section. For purposes of this Section, a dwelling unit shall be considered uninhabitable if it substantially lacks any one of the first 7 or a combination of:

- A. As applied to landlord responsibilities:
  - 1. Effective waterproofing and weather protection of roof and exterior walls, including windows and doors;
  - 2. Plumbing facilities which conform to applicable law in effect at the time of installation, and maintained in good working order;
  - 3. A water supply approved under applicable law, which is:
    - a. Under the control of the tenant or landlord and is capable of producing hot and cold running water
    - b. Furnished with appropriate fixtures;
    - c. Connected to a sewage disposal system approved under applicable law; and
    - d. Maintained so as to provide safe drinking water and to be in good working order to the extent that the system can be controlled by the landlord;
  - 4. Adequate heating facilities which conform to applicable law at the time of installation and maintained in good working order;
  - 5. Electrical lighting with wiring and electrical equipment which conform to applicable law at the time of installation and maintained in good working order.
  - 6. Buildings, grounds and appurtenances at the time of the commencement of the rental agreement in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin;
  - 7. Safety from fire hazards as required by the Oregon Fire Code.
- B. As applied to tenant duties:
  - 8. All areas of the premises kept in every part as clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage,

rodents and vermin, as the condition of the premises permits and to the extent that the tenant is responsible for causing the problem.

9. All ashes, garbage, rubbish and other waste disposed of from the dwelling unit in a clean, safe and legal manner.
10. All plumbing fixtures in the dwelling unit kept or used by the tenant as clean as their condition permits.

The tenant shall cooperate to a reasonable extent in assisting the landlord in any reasonable effort to remedy the problem.

#### 6.500 Resolution

Resolution of a violation of this section may be sought as stipulated in Section 10 Enforcement Procedures in this Ordinance with the following changes:

- A. Discovery.  
A complaint under this section shall be filed for investigation by recommendation to the Code Enforcement Officer or a local Fire Chief.
- B. Investigation and Confirmation.  
An action for enforcement by the Code Enforcement Officer shall be investigated and authorized by at least one authorized public health official as identified in Section 6.100 above. The investigation shall be accomplished either by physical inspection of the property or by inspection of photographic or video evidence of the alleged violation. When a violation of this Section has been confirmed upon this investigation, the public health official(s) shall provide the Code Enforcement Officer with a Confirmation Statement avowing the existence of a public health and safety violation according to the Benchmarks provided in Section 6.400 (Benchmarks) above.
- C. Actions.
  1. The first confirmed violation with respect to location and property owner shall follow the guidelines of Section 10.100(A) of this Ordinance if Summary Abatement is not warranted. The responsible part(y)ies shall be provided with appropriate education materials as to property owner and/or tenant resources and responsibilities.
  2. Subsequent violations on the same property with the same property owner may meet the definition of chronic offender. The County may utilize an enforcement action most appropriate to the situation in compliance with Section 10 of this Ordinance. Penalties and Costs will be assessed according to Section 12 of this Ordinance including recovery in the form of a lien to recover costs and penalties for abatement.
  3. A chronic offender will face additional sanctions, such as citation and County abatement with the requirement to pay the County's costs plus chronic offender percentage penalties as stipulated in the Morrow County Fee Ordinance.

## 6.600 Inspection and Right of Entry

### A. Right of Entry.

A Code Enforcement Officer 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 Officer has reasonable cause to believe that there exists in any structure or upon any property any condition which would constitute a violation as described in this Section, the Oregon Fire Code or Building Code. In the case of entry into areas 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 Code Enforcement Officer shall first present proper credentials and request entry. If entry is refused, the Code Enforcement Officer may obtain entry by obtaining an inspection warrant;

2. Unoccupied Property.

a. If the property is unoccupied, the Code Enforcement Officer shall contact the property owner, or other persons having charge or control of the property, and request entry. If entry is refused, the Code Enforcement Officer may obtain entry by obtaining an inspection warrant.

b. If structures on the property are unoccupied, the Code Enforcement Officer 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 Code Enforcement Officer may obtain entry by obtaining an inspection warrant; or

### 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 investigation 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 investigation 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 Justice of the Peace 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 Justice of the Peace is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the Justice of the Peace 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 Justice of the Peace 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, the Justice of the Peace 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 Code Enforcement Officer(s) inspecting the property in any way necessary to complete the inspection.

#### D. Execution of Inspection Warrants

1. Occupied Property. Except as provided in paragraph 2. below, 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 the 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 paragraph 1. above, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.

3. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the Justice of the Peace by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

#### 6.700 Appeals

Appeals shall be made to the Morrow County Court, which will act as an advisory and appeals board. A written appeal must be filed with the Planning Department within 20 days after the day of the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Section or the rules legally adopted thereunder have been incorrectly interpreted, the provisions do not fully apply, or the requirements are adequately satisfied by other means. The County Court shall meet to hear an appeal upon notice from the Planning Director within 20 days of the filing of an appeal at a separate hearing or at a regularly scheduled County Court hearing. All appeal hearings shall be open to the public. The appellant, the appellant's representative, the Code Enforcement Officer and any person whose interests are affected shall be given an opportunity to be heard. The County Court shall modify or reverse the decision of the Code Enforcement Officer only by a concurring vote of a majority of the County Court and upon consultation with the public health officials responsible for signing the original Confirmation Statement stipulated in this 6.500(B) of this Section. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the County Court. The Code Enforcement Officer shall take immediate action in accordance with the decision of the County Court.

## **Section 7. Noise as a Public Nuisance**

### **7.100 Prohibited Acts**

It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any loud, disturbing or unnecessary noise in the County. The following acts are declared to be violations of this Section, but such enumerations shall not be deemed to be exclusive:

- A. Any loud and continuing noise that obstructs the free use of property so as to essentially interfere with the reasonable comfort and enjoyment of life and property.
- B. Noise made between the hours of eleven o'clock (11:00) PM and seven o'clock (7:00) AM, and is one of the following:
  - 1. Constant for at least five (5) minutes; or
  - 2. Repeated at least three (3) times during a thirty (30) minute time period.
- C. Noise that is plainly audible within a dwelling unit one hundred feet (100') or more away from the source of the noise, including the use of domestic power tools, construction work, noise created by dogs, or any similar offensive noise from any building used as a private residence, apartment house, rooming house, or hotel between the hours of eleven o'clock (11:00) PM and seven o'clock (7:00) AM.
- D. A continuing offense, which shall be one in which the sound constituting the violation occurs without substantial break for a period of twenty-four (24) hours or more.

### **7.200 Exceptions**

The following acts are exceptions in this Chapter:

- A. Noise emanating from aircraft, railway locomotives, military operations, energy facilities, and farm equipment and operations.
- B. Noise created by the normal operation of construction, road work, road repair, drilling or demolition work that occurs between the hours of six o'clock (6:00) AM and ten o'clock (10:00) PM.
- C. Noise created by a community outdoor activity or event conducted on public or private parks, playgrounds, and public or private school grounds .
- D. When an alleged noise nuisance is the result of an activity allowed by a permit issued by an authority of the State or Federal jurisdiction, the nuisance shall be enforced under the provisions and conditions of that particular permit.
- E. Noise caused by the performance of emergency work, emergency alarms, or by the ordinary and accepted use of emergency apparatus and equipment.

### **7.300 Penalties**

In addition to other remedies provided by this Ordinance, a violation may be enjoined by a civil action pursuant to Oregon Statute as described in Section 12 of this Code.

Violations of Oregon Administrative Rule 340-035 Noise Control Regulations are not enforced under this code enforcement ordinance.

## **Section 8. Dogs as a Public Nuisance and Animal Neglect**

### **8.100 Establishment of a Dog Control District**

Morrow County is hereby declared a Dog Control District. The Morrow County Court shall act as the Dog Control District Board of Supervisors. The Code Enforcement Officer shall be the dog control officer and will provide for administration and enforcement of a dog control program.

#### 8.200 Dogs as a Nuisance

- A. A dog is a public nuisance if it:
  - 1. Chases persons or vehicles on premises other than premises from which the keeper of the dog may lawfully exclude others;
  - 2. Damages or destroys property of persons other than the keeper of the dog;
  - 3. Scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude others;
  - 4. Trespasses on public or private property of persons other than the keeper of the dog;
  - 5. Disturbs any person by frequent or prolonged noises;
  - 6. Is a female in heat and running at large; or
  - 7. Any dog running at large; or
  - 8. Is a menacing or potentially dangerous dog, but is not a dangerous dog as defined in Oregon Statute
- B. Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance may complain, either orally or in writing, to the County. The receipt of any complaint is sufficient cause for the County to investigate the matter and determine whether the keeper of the dog is in violation of this Section.
- C. A law enforcement officer or dog control officer may cite a keeper, impound a dog, or both if the dog is found running at large as a nuisance as described in 8.200(A) above.

#### 8.300 Owner Responsibility

- A. All dogs shall be kept within the real property limits of the keeper of the dog and under control of the responsible person, or contained with a fence that maintains control of the animal. While off the property of the keeper of the dog, a dog must be on a leash or lead under control of a responsible person or be contained within a portable kennel. If the dog has been determined by the law enforcement officer or dog control officer to be a public nuisance consistent with the definition in 8.200(A) above, restraint shall mean contained within a dog run or kennel, inside a secure structure, or leashed and muzzled when off the premises or the premises occupied by the keeper of the dog.
- B. Any dog determined by the County to be a menacing dog or a public nuisance shall be confined by the keeper of the dog, within a secure building, secure kennel or dog run. Whenever off the premises the dog shall be securely muzzled and leashed or muzzled and caged whenever off the premises of the keeper of the dog.
- C. No dog shall be allowed to cause a nuisance. The keeper of every dog shall be held responsible for every behavior of such dog under the provisions of this Section and State law.

#### 8.400 Dogs and Livestock

- A. The owner of any livestock which has been damaged by being injured, chased, wounded or killed by any dog shall have a cause of action against the owner of such dog for the damages resulting therefrom, including double the value of any livestock killed and double the amount of any damage to the livestock.
- B. If one or more of several dogs owned by different persons participate in damaging any livestock, the owners of the respective dogs shall be jointly and

severally liable under this section. The owners of dogs jointly or severally liable under this section have a right of contribution among themselves. The right exists only in favor of an owner who has paid more than the pro rata share of the owner, determined by dividing the total damage by the number of dogs involved, of the common liability, and the total recovery of the owner is limited to the amount paid by the owner in excess of the pro rata share of the owner.

- C. Any dog, whether licensed or not, which, while off the premises owned or under control of its owner, kills, wounds, or injures any livestock not belonging to the master of such dog, is a public nuisance and may be killed immediately by any person. This regulation does not apply to any dog acting under the direction of its master, or the agents or employees of such master.
- D. If any dog, not under the control of its owner or keeper, is found chasing or feeding upon the warm carcass of livestock not the property of such owner or keeper it shall be deemed, prima facie, as engaged in killing, wounding or injuring livestock.
- E. No person shall kill any dog for killing, wounding, injuring or chasing chickens upon a public place or highway.

8.500 Impounding certain dogs; procedure for county disposition of impounded dogs; impoundment fees and costs; release of dog.

- A. A law enforcement officer or dog control officer may cite a keeper, impound a dog, or both if the dog is a public nuisance as described above; or the officer has probable cause to believe that the dog is a dangerous dog as defined in ORS 609.098.
- B. All dogs impounded under this section shall be held in an adequate and sanitary pound to be provided by the county governing body from the general fund or out of funds obtained from dog licenses and from the redemption of dogs so impounded. However, in lieu of the establishment of a dog pound, the county governing body may contract for the care of the dogs. Unless claimed by its keeper, a dog shall be impounded for at least three days if the dog is without a license or identification tag and for at least five days if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of a dog before the dog is removed from impoundment.
- C. Unless the dog control board or county governing body provides otherwise, if the keeper appears and redeems the dog, the keeper shall pay a fee for each subsequent impoundment, pay the expense of keeping the dog during the time it was impounded, and obtain necessary immunizations. Fees will be in accordance with the current Morrow County Fee Schedule.
- D. In addition to any payment required pursuant to subsection C. of this section, a dog control board or county governing body may require as a condition for redeeming the dog that the keeper agree to reasonable restrictions on the keeping of the dog including, but not limited to 8.300(B) of this section (Owner Responsibility). The keeper must pay the cost of complying with the reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization.
- E. A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under subsection D. of this section or if a keeper fails to provide acceptable proof of compliance to the dog control board or county governing body on or before the 10th day after issuance of the order imposing

the restrictions. If the board or governing body finds the proof submitted by the keeper unacceptable, the board or governing body shall send notice of that finding to the keeper no later than five days after the proof is received.

- F. The dog control board or county governing body may release the dog to a responsible person upon receiving assurance that the person will properly care for the dog, including providing necessary immunizations, and upon payment of a sum established by the county governing body plus cost of keep during its impounding, and purchase of a license if required. The person shall thereafter be the keeper of the dog for purposes of ORS 609.035 to 609.110.
- G. If the keeper of a dog is not charged with violating ORS 609.095 (2) or (3) or ORS 609.098, and the dog control board or county governing body finds that the dog has menaced or chased a person when on premises other than the premises from which the keeper may lawfully exclude others or has bitten a person, the dog control board or county governing body may order that the dog be killed in a humane manner. Before ordering that the dog be killed, the board or governing body shall consider the factors described in ORS 609.093 and issue written findings on those factors. Notwithstanding ORS 34.030, if the disposition order issued by the board or governing body provides that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than the 10th day after the dog control board or county governing body sends notice of the order to the keeper. Notwithstanding ORS 19.270, 19.330 and 34.070, the order for the killing of the dog may not be carried out during the period that the order is subject to review or appeal. If the dog is not killed, the board or governing body may impose reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions. If no keeper appears to redeem a dog within the allotted time or the keeper of the dog is not able or willing to comply with the required restrictions, the dog may be surrendered to the County.
- H. If the keeper of a dog is charged with violating ORS 609.095 (2) or (3) or 609.098, upon conviction of the keeper the court may determine the disposition of the dog as provided under ORS 609.990 up to and including euthanization.
- I. Notwithstanding subsections B., C., F., G. and H. of this section, any dog impounded for biting a person shall be held for at least 10 days before redemption or destruction to determine if the dog is rabid.
- J. Notwithstanding subsections B. and C. of this section, if the keeper is charged with violating ORS 609.098, the dog shall be kept in impoundment pending resolution of the charges. A court may order the keeper to post a deposit with the dog control board or county governing body to cover the cost of keeping the dog in impoundment. If the keeper is convicted of violating ORS 609.098, the court may order the deposit forfeited to the board or governing body.
- K. A dog control board or county governing body may impose lesser fees or penalties under subsections C. and F. of this section for certain senior citizens under certain circumstances.
- L. The county governing body may euthanize the dog if not claimed within 30 days.

#### 8.600 Animal Abuse, Neglect and Abandonment

A person who commits a crime of animal abuse, neglect or abandonment shall be subject to the provisions of ORS 167.310 through 390.

8.700 Nuisance Dog Penalties

Fines and Penalties shall be paid in accordance with the Morrow County Fee Schedule and ORS 609.162, 163,166, and 990. In addition to any fine or sentence imposed under this section, a court may order a person who keeps a nuisance dog as set forth in Section 8.200 above to pay restitution for any physical injury, death or property damage caused by the dog as a result of the keeper's violation. The court may also order the person to pay the cost of keeping the dog in impoundment.

**Section 9. Weed Control**

9.100 Establishment of a Weed Control District

Morrow County is hereby declared a Weed Control District. The Morrow Soil and Water Conservation District shall act as the Weed Advisory Board. The Morrow County Weed Manager shall be the weed inspector and will provide for administration and enforcement of a weed control program as outlined in Oregon Statute.

9.200 Weeds Considered Noxious or of Economic Importance

- A. A weed is a noxious weed if it:
  - 1. Is recognized by the County Court as an imminent and continuous threat to natural resources, watershed health, livestock, wildlife, land, and agricultural products.
  - 2. Has the potential for widespread infestation.
  - 3. Is not native to the State of Oregon
- B. The weed inspector shall administer and enforce management and control of noxious weeds and weeds of economic importance, when feasible, with control practices selected and applied to achieve desired weed management objectives in a manner that minimizes risks to human health, non-target organisms, native fish and wildlife, watersheds, and the environment.

9.300 Property Owner Responsibility

- A. Each person, firm, or corporation owning or occupying land within the district shall destroy or prevent the spread or seeding of any noxious weed by the use of the best means at hand and within a time deemed reasonable, except that no weed declared noxious shall be permitted to produce seed.
- B. Any owner or occupant of land identified as have Noxious Weeds (Appendix A) on their property shall submit a Weed Management Plan for their property within 45 days of notification of the existence of such weeks. The Weed Management Plan shall comply with requirements as established by the Morrow County Weed Advisory Board. A Weed Management Plan shall include, but not be limited to, the follow elements:
  - 1. A location map or aerial photo which illustrates:
    - a. the locations of the Noxious Weeds; and
    - b. The land features such as roads, creeks, houses, etc.
  - 2. Identification of the weeks targeted for control.
  - 3. The short-term (1 to 3 years) control plan, which shall specify:
    - a. The spray program, including:
      - the type of chemical and rate
      - the timing and frequency of application
      - the follow up and survey plans
      - the date of completion
    - b. The mechanical control plan.

4. The long-term (3-5 years) control plan, which shall address:
    - a. The designs for increased range health, including:
      - proper grazing
      - range seeding
      - rest
      - pasture rotation
    - b. Follow up spray program.
  5. The method and timing intervals of reports on the status of the plan.
- C. Persons operating or having control of any threshing machinery, clover huller, hay baler, seed cleaning or treating machinery or other machinery shall thoroughly clean it before moving it over any public road or from one farm to another. All hay, straw or other crop residue infested with noxious weeds having partially or fully formed seeds shall not be moved from the land on which it was grown.

9.400 Weed inspector right of entry; service of notice to eradicate weeds; department or district control measures.

- A. The weed inspector shall have access to the land within the district.
- B. When provisions of Oregon Statute are not being complied with, the weed inspector or code enforcement officer shall serve a written notice to the owner or occupant of the land. When the weed inspector or code enforcement officer is unable to serve the notice personally, the notice shall be posted and two (2) copies thereof in three (3) conspicuous places on the land. The notice shall contain:
  - a. The date of service or posting of notice.
  - b. The name of the weed or weeds growing on the land, and a statement setting forth that the weeds must be destroyed or must be prevented from producing seed within a specified time of not less than two (2) days or more than 20 days, to be established by the inspector, from the date of service of the notice.
- C. The service of notice as provided in subsection (B) of this section imposes a requirement on the owner or occupant of the land to destroy or prevent the weeds from seeding or spreading during the continuation of ownership or occupancy of the land or until the district is dissolved. A copy of the notice, together with proof of service indorsed thereon, shall be filed with the county court.
- D. Notwithstanding subsection (B) of this section, with permission of the owner or occupant of land, employees of the State Department of Agriculture, or of designated weed control districts, may enter the land to identify noxious weeds and to implement or provide for the implementation of integrated noxious weed control measures, including but not limited to the application of pesticides to the land. The control or eradication of noxious weeds may be conducted with or without charge to the owner or occupant of the land. A notice as described in subsection (B) of this section is not required for the conduct of activities described in this subsection.

9.500 Procedure for County Disposition of Weeds.

- A. Steps leading to eradication and control of noxious weeds in the county are necessary and the weed control officer shall cooperate with individual landowners in the control and eradication of noxious weed pests.

- B. The weed inspector shall destroy or prevent the spread or seeding of any noxious weed on any land owned by the county or constituted as the right of way for any highway, county road, drainage or irrigation ditch, power or transmission line, or other purposes under their jurisdiction.
- C. If the owner or occupant of the land fails or refuses to immediately destroy or cut the noxious weeds, the weed inspector shall at once notify the County Court, who will take enforcement steps.
  - 1. The county shall authorize the weed inspector to go upon the land or premises and destroy the noxious weeds or control them in such a manner as will destroy all seeds using the most effective and practical method in the judgement of the inspector and with the least injury to the land or crops.
  - 2. If the weeds are too far advanced for local control procedures the inspector shall notify the County Court which shall request the State Department of Agriculture to immediately quarantine any uncontrolled noxious weed infested farm within the county to prevent the movement of infested crops or livestock and to prevent the spread of the weeds.

9.600 Penalties, Fees and Costs.

- A. Upon completion of work the person so appointed and authorized by the county court shall file an itemized statement of expenses necessarily incurred including wages. A lien shall be docketed upon the lands or premises for the cost of expenses. If the charges and expenses are not paid and the lien discharged by the owner or occupant of such land within 90 days the county may recover the expenses in an action at law.
- B. In addition to other remedies provided by this Ordinance, violation may result in a fine assessed in accordance with Oregon Statute and may incur civil penalties.

**Section 10. Enforcement Procedures**

10.100 Enforcement Actions

Enforcement Options. Resolution of a violation of Morrow County ordinances may be sought in any one or a combination of the following methods. Which method to be used is solely at the discretion of the County.

- A. Warning Notice process seeking voluntary compliance;
- B. Consent agreement;
- C. Citation;
- D. Stipulated judgment;
- E. Order of abatement;
- F. Other civil actions, seeking a judgment and order for compliance, including but not limited to mandamus, restraining orders, stop work orders;
- G. Summary Abatement.

10.200 Investigation Authority; Entry on Premises.

Where authorized by statute or as a condition of permit approval, consent agreement, or agreed condition of a prior enforcement order, the Code Enforcement Officer shall have the power to enter upon and inspect, at any reasonable time, any public or private property, to investigate any alleged violation of County ordinance, order or permit approval, a violation of a statute which the County has the authority to enforce, or to ascertain compliance or noncompliance with the administrative resolution procedure set

out in this Section, a stop work or stop use order under Section 13 of this Ordinance, or a consent agreement under Section 10.500 of this Ordinance. A warrant for inspection of private property, including a private residence, will be accomplished in accordance with Section 6.600 of this Ordinance (Inspection and Right of Entry).

10.300 Enforcement by voluntary compliance; warning notice

- A. The process authorized in this section is primarily for the purpose of seeking voluntary compliance by the alleged violator. At the discretion of the enforcement officer this process is to be considered in those cases where voluntary compliance is likely and is in the interests of the County, taking into consideration the nature and severity of the violation and the history of the property and the person responsible.
- B. Voluntary compliance procedure: Except as otherwise provided in subsection (G) of this section, the enforcement officer shall solicit the voluntary compliance of the person in violation of this Ordinance by the procedure set forth in this subsection.
- C. In cases where the corrective action indicated in a notice requires both applying for and receiving a permit or approval, the violation shall continue until all necessary permits or approvals are granted or until they are denied and code compliance is obtained through other means.
- D. If the person responsible is not the property owner, the County shall give initial and final notice to abate a violation to the property owner; however, a notice of violation published at least once in a newspaper of general circulation in Morrow County is sufficient notice to a property owner to satisfy the notice requirements of this Ordinance and or other due process required by law. The notice to the property owner and the publication shall additionally state that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
- E. On completion of the personal giving of notice, posting, and mailing, the person or persons giving such notice shall execute and maintain affidavits stating the date, time, place and manner of giving notice.
- F. An error in the name or address of the person responsible or property owner shall not make the notice void, and in such case the posted or published notice, as the case may be, shall be sufficient.
- G. Notwithstanding the process authorized in this section, the County may at any time immediately begin prosecution of any violation on a citation or file any other action to abate the violation. This determination is at the discretion of the enforcement officer. The determination is not appealable or reviewable.
- H. Warning notice
  - 1. Subject to subsection (B) of this section, if an enforcement officer is satisfied that a violation exists, the enforcement officer shall:
  - 2. Give personal notice; or
  - 3. Cause an initial notice to abate to be posted on the premises or at the site of the violation, directing the person responsible to abate the violation; and
  - 4. At the time of posting, cause a copy of the notice to abate to be forwarded by registered or certified mail, postage prepaid, to the person responsible at the last known address of such person.
  - 5. The notice to abate shall contain the following contents:
    - a. Statement that the notice is a "notice to abate a violation."
    - b. The name of the person issuing the notice along with the name of the County Department to contact regarding the violation;

- c. The date the notice was issued;
- d. A brief description of the violation alleged to exist;
- e. A description of the real property, by street address or otherwise, on which the violation exists;
- f. A statement describing the corrective action that needs to take place to correct the alleged violation(s);
- g. An order to voluntarily abate the violation within 10 days from the date of the notice;
- h. A statement that failure to correct the alleged violation(s) within 10 days may result in further enforcement procedures including any combination of the following:
  - (1) An enforcement citation and prosecution including, but not limited to; payment of a fine and court costs and court orders to comply;
  - (2) Other civil actions in court; or
  - (3) Abatement by the County.
- i. A statement that if the violation is not voluntarily abated, the County may seek from the court a judgment to abate the violation, which if not obeyed, could result in the County itself abating the violation and being awarded a lien by the court on the specified property for the expenses of abating the violation and administrative costs.

#### 10.400 Enforcement Process by Citation

- A. If the violation has not been satisfactorily abated by the date and time specified in the warning notice, or the enforcement official makes the determination set forth in subsection (B) of this section, the enforcement officer may issue a citation pursuant to this Ordinance.
- B. If the enforcement officer determines that enforcement of a violation by means of a citation is warranted, the enforcement officer may issue a citation under this Ordinance.
- C. Any code enforcement officer may issue and serve a citation for violation of a Morrow County regulation or State Statute as described in Section 1.200 or 1.300 of this Ordinance. If the responsible party(s) is cited, or if a stop work/use order is issued, the responsible party(s) may request a hearing as provided in Section 11 of this Ordinance. The setting of priorities among different complaints and enforcement actions shall be within the discretion of the Code Enforcement Officer, upon consultation with the County Department(s) involved.
- D. Sequence of Procedures.
  - 1. Citation: The Code Enforcement Officer shall use the Oregon Uniform Citation & Complaint form.
  - 2. Violation: Except where otherwise prohibited by statute, each calendar date on which the violation occurs shall constitute a separate violation. A citation shall be written for each day the violation continues to be a continuing violation.
  - 3. Multiple Violations: The prosecution of an individual violation shall not bar the subsequent prosecution of any additional violations, which occurred at the same time or as part of the same act.
  - 4. Service: The Code Enforcement Officer shall issue a copy of the citation to the responsible party(s).

5. Filing: In addition to service on the responsible party(s), one copy of the citation, complaint and summons shall be filed with the Justice Court and one copy shall be placed in the Code Enforcement File within three days of completion of service. The citation, complaint and summons must be served a minimum of ten(10) days prior to the scheduled date of the hearing.

If the situation has not been abated within the time allowed, the Code Enforcement Officer may cause the situation to be abated. The Public Safety Officer or other persons charged with the responsibility of abatement of the situation shall have the right at reasonable times to enter upon the property to investigate or cause the removal of the situation. Abatement will be accomplished according to the abatement procedures set forth in this Section.

- E. Pursuant to Oregon Statute, any enforcement officer may serve a person with a citation on which another enforcement officer made a certification.
- F. Any enforcement officer issuing a citation pursuant to this chapter shall, in addition to the date and time, indicate that the responsible party must appear before the court and the name of the court before which the responsible party is required to personally appear.
- G. The base fine for a violation shall be the maximum amount allowed in Oregon Statute.
- H. The person making the certification is not required to be the person who serves the citation on the person believed to be in violation of the Ordinance.
- I. An enforcement officer may issue a violation citation pursuant to this Ordinance even if the conduct alleged to constitute a violation does not take place in the presence of the officer, if the officer has reasonable grounds to believe that the conduct alleged constitutes a violation.
- J. Violation proceedings for the purpose of enforcing the Morrow County Code and this chapter may be commenced only by enforcement officers. No private party may initiate a violation proceeding pursuant to ORS 153.058 or other law.

#### 10.500 Enforcement by Consent Agreement

- A. During the pendency of an action on a violation, but prior to entry of a judgment, the County and the responsible party may enter into an agreement designed to abate the violation and petition the court to include it as a part of a consent agreement as described in this section.
- B. The consent agreement may provide that the responsible party does not admit violation of a County Code but will make necessary corrections, as set forth in the agreement, to bring the responsible party's actions, conduct, omissions or property into conformance with the Code.
- C. The responsible party, the responsible party's attorney, if any, and a County representative shall sign the consent agreement.
- D. The consent agreement shall be filed with the Circuit or Justice Court as a final adjudication of the proceedings and shall constitute a dismissal of the action when the responsible party performs as agreed. The violator or Morrow County may seek a court order dismissing the case upon completion of the conditions of the consent agreement. The court retains jurisdiction of the matter until the order dismissing the case is issued.

- E. The responsible party's failure to comply with the consent agreement allows the County to seek any additional remedies provided by law or this Ordinance including an order of abatement.

#### 10.600 Enforcement by Stipulated Judgment

- A. During the pendency of an action on a violation, if the responsible party enters a plea of guilty or is found guilty, the responsible party and the County may agree to and submit to the court a stipulated agreement and judgment to abate a violation.
- B. As part of a stipulated agreement and judgment under this section:
  - 1. The responsible party must plead guilty to the violation;
  - 2. The responsible party shall abate the violation as provided by the agreement;
  - 3. The responsible party shall cooperate with the Enforcement Officer;
  - 4. The County may, but is not required to, bear some or all of the costs of abatement
  - 5. Any costs of abatement which the County bears must be repaid by the responsible party to the County as provided by the agreement; and
  - 6. Any costs paid by the County to abate the violation shall become a money judgment in favor of the County against the responsible party. The County may record such judgment as a lien in accordance with applicable law.
- C. If the responsible party fails to comply with the terms and conditions of the stipulated judgment, the County may enter the property and abate the violation.

#### 10.700 Enforcement by Order of Abatement

- A. If the parties do not enter into a consent agreement or a stipulated judgement, and notwithstanding the willingness of the responsible party to pay the base fine, the Justice of the Peace shall, if the responsible party pleads guilty or no contest or is found guilty, issue an order to the responsible party to abate the violation in a manner and time acceptable to the County and require the responsible party to provide proof of abatement to the County and to the Justice of the Peace.
- B. Order of Abatement
  - 1. In addition to, not in lieu of, any remedy allowed by this Section and pursuant to ORS 153.090 (1)(e), as part of a judgement entered under this Section, the Justice of the Peace:
    - a. may on its own motion and shall on request of the enforcement officer, order a responsible party to abate any violation of which the responsible party is found guilty or enters a plea of guilty or no contest. The Justice of the Peace shall set a time by which the responsible party must abate the violation and may set other conditions on the order of abatement. Any abatement order shall include authorization for an enforcement officer to enter the property to determine compliance with the code and compliance with an order to abate. Any failure to abate the violation as ordered by the Justice of the Peace shall be contempt of court; or
    - b. shall on request of the enforcement officer, authorize the County to enter the property for the purposes of abating the violation.

2. The responsible party shall cooperate with the Enforcement Officers including not preventing the officer and any other persons employed or contracted by the County to enter the property to determine compliance with the code and any orders to abate.

#### 10.800 Summary Abatement.

The health officer, the chief of a Fire Department, the Sheriff, the Planning Director, or the Director of Public Works may, through coordination with the Code Enforcement Officer, proceed summarily to abate a health or other violation which unmistakably exists and which imminently endangers health or property; however, such summary abatement shall be limited to only those actions necessary to reduce the threat to a level that eliminates the imminent danger to health or property. No notice to the property owner or person in control of the property is required. Costs of the abatement may be assessed as provided in Section 12(Penalties and Costs).

### **Section 11. Hearings**

- A. A person to whom a citation is issued shall have a hearing before the Justice Court of Morrow County on an issue of violation or abatement pursuant to this Ordinance and the date shall be as set forth in the citation.
- B. Hearing by Justice Court of Morrow County.  
The Morrow County Justice of the Peace may act as an administrative hearings officer for the purposes of this Ordinance, unless otherwise appointed by the County Court. The County shall have the burden of proving by a preponderance of the validity of the violation, citation, or abatement. The County may present evidence either by testimony or written report of the Public Safety Officer or Code Enforcement Officer. If the County's evidence is presented only by written report and the Justice of the Peace cannot resolve a question solely upon the information contained in the report, the hearing may be continued for a reasonable time to obtain additional information.
- C. If the Justice of the Peace finds that:
  - a. the citation, or abatement was proper, the Justice of the Peace
    1. Shall enter a written order supporting the citation or abatement; and
    2. Shall find that the owner or responsible person is liable for any costs resulting from the abatement; and
    3. May find that the owner or responsible person is liable for the costs of the hearing.
  - b. the citation or abatement was improper, the Justice of the Peace shall:
    1. Find that the owner or responsible person is not liable for any charges or abatement costs resulting from the abatement; and
    2. Order the County to satisfy the abatement costs.
- D. The decision of the Justice of the Peace is final subject to the protesting party having right to file a writ of review pursuant to ORS 34.010 to 34.100.
- E. If the person requesting the hearing does not appear at the scheduled hearing, the Justice of the Peace may enter an order supporting the assessed costs of the abatement.

## **Section 12. Penalties and Costs**

### **12.100 Civil Penalties**

Except for any separate fine issued for an amount otherwise established by law for any specific fine violation such as a nuisance dog, any person who violates the provisions of this Ordinance shall be punishable, upon conviction, by a fine for a Class A violation as provided in Oregon Statute for a non-continuing offense and for each continuing offense. Each day upon which a continuing offense occurs or continues shall constitute a separate violation if cited as such. In addition to the civil penalty amounts assessable herein, the County may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities and the costs of any actual damages incurred by the County attributable to the responsible party.

Payment of any fine shall not excuse or discharge a responsible party from the duty to immediately abate and correct a violation of the code, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of the code.

For the purposes of this Ordinance, a continuing offense occurs when a responsible party or person allows the circumstances constituting the offense to continue over consecutive 24-hour periods after:

- A. having received notice of the violation; or
- B. having refused notice of the violation; or
- C. it is reasonable to expect that the person has actual knowledge of the circumstances constituting the offense.

### **12.200 Costs Recoverable**

- A. Upon a finding that a violation has occurred, the Justice Court has the discretion to order the violator, in addition to any penalties assessed, to reimburse the County for actual costs or expenditures incurred by the County in prosecuting, cleaning up or abating an ordinance violation for any of the following:
  - 1. Any fees charged the County for service on responsible party(s);
  - 2. Mileage for investigation service or other activities directly related to the enforcement action at the current county rate;
  - 3. Postage;
  - 4. Photocopying;
  - 5. Publication charges;
  - 6. Sampling and monitoring expenses;
  - 7. Film and development costs; and
  - 8. Any expense incurred by the County in abating or correcting a violation which the responsible party(s) has refused to correct.

All costs and expenses to be reimbursed must be documented by receipts, vouchers, or records verified by affidavit of the public official keeping such records.

### **12.300 Code Enforcement Cleanup Fund**

- A. The Code Enforcement Cleanup Fund is hereby established. The Planning Department shall recommend an amount to be approved annually by the Budget Committee, and all amounts so approved are appropriated for the purposes set forth in this Section.
- B. Monies in the fund created by this Section may be used, at the sole discretion of the County, in any abatement ordered under this Ordinance. Monies expended

from the Code Enforcement Cleanup Fund and repaid by the responsible party to the County shall be applied to the fund established in this Ordinance.

#### 12.400 Weed Control Fund

- A. The Weed Control Fund is hereby established. The County Court shall recommend an amount to be approved annually by the Budget Committee, and all amounts so approved are appropriated for the purposes set fourth in this Section.
- B. Monies in the fund created by this Section may be used, at the sole discretion of the County, in any abatement ordered under this Ordinance. Monies expended from the Weed Control Fund and repaid by the responsible party to the County shall be applied to the fund established in this Ordinance.

#### 12.500 Recovery on a money judgment

- A. Every money judgment shall name Morrow County as the judgment creditor.
- B. A money judgment, including but not limited to funds described in Section 12.300, Code Enforcement Cleanup Fund, and 12.400, Weed Control Fund, must be repaid by the responsible party to the County.
- C. Fines and other court costs
  - 1. The amount of any fine imposed pursuant to this Ordinance shall be transferred to the Morrow County General Fund. Fifty percent of the fine amount shall then be transferred to the Code Enforcement Cleanup Fund or Weed Control Fund, established in this Section.
  - 2. The Justice Court shall charge court costs to the responsible party, as determined within the county fee schedule, where,
    - a. The responsible party admits a violation or is found guilty of a provision of the County Code;
    - b. The responsible party fails to appear for the hearing or, following a hearing, is found to have violated a provision of the County Code; or
    - c. The defendant enters into a stipulated judgment with the County wherein the responsible party pleads guilty on the citation but agrees to make necessary corrections, as set forth in the agreement, in order to bring the responsible party's conduct, actions, omissions, or property into compliance with the County Code.
    - d. If the responsible party fails to pay the costs, the costs shall be entered as a judgment against the responsible party in the same manner and with like effect as a judgment for a fine.

#### 12.600 Liens

Penalties and costs assessed against a violator(s) by order of the Justice Court shall, if not paid within 60 days of the date of the order or as otherwise specified in the order, be County liens as provided in Oregon Statute Recovery of Fines and Forfeitures.

##### Recording and releasing liens

- A. If the County intends to pursue recovery of penalties and costs against a violator the County Court shall cause to be filed with the County Clerk an itemized statement of the penalties and costs, as ordered by the Justice of the Peace, to be recovered. When the Statement of penalties and costs is filed the Clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the penalties and costs when so docketed shall constitute a first lien upon

such property, except as to taxes. It shall be the responsibility of the County Treasurer to create and maintain a record of payments made by the responsible party, on a form identifying the case, the responsible party, the amount and date payment was made.

- B. The County may record a money judgment as a lien in accordance with this Section, and may pursue recovery of any money judgment.
- C. For purposes of a lien that has been filed, an error in the name of the owner or person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void but it shall remain a valid lien against the property.
- D. The Code Enforcement Officer is responsible, in consultation with the Treasurer and County Counsel, to ensure that a satisfaction of judgment and release of lien is executed and filed as appropriate, once any money judgment is paid in full.

### **Section 13. Stop Work or Stop Use Order**

The Code Enforcement Officer, having reasonable grounds to believe that a person(s) has committed a violation, in lieu of or in addition to issuing a citation, may issue a stop work or stop use order according to the provisions of this Section.

#### **13.100 Grounds for Issuance.**

A stop work or stop use order may be issued by the Code Enforcement Officer at any point in the enforcement process, if the violation observed is on which requires immediate remedial action:

- A. To protect the public health, safety or welfare;
- B. Because the responsible party(s) refuses to cooperate with the Code Enforcement Officer; or
- C. Because the violation continues despite notice to the responsible party(s) of the violation or notice to obtain a necessary permit.

#### **13.200 Contents.**

A stop work or stop use order shall be in writing and contain the following:

- A. An order that all work or action in violation of County ordinance(s) stop immediately;
- B. The name of the person(s) or entity(s) to whom it is issued (if known);
- C. The effective date of the order;
- D. The date the order is issued;
- E. The location or address of the violation;
- F. The tax account identification number;
- G. The specific sections of the County Ordinance(s) violated;
- H. A factual description of the nature of the violation;
- I. The specific steps which the responsible party(s) must take to correct the violation;
- J. The name and signature of the Code Enforcement Officer; and
- K. An address and phone number where the Code Enforcement Officer can be contacted.

#### **13.300 Service**

A copy of a stop work or stop use order shall be posted on the property where the violation is occurring (hereinafter "subject property") and sent certified mail with return receipt, or any means of mailing by which a return receipt can be obtained, to the following:

- A. All owners and contract purchasers of the subject property;
- B. Any known lessees;
- C. The State Building Codes Agency;
- D. Any known contractors doing construction work on the subject property which would be in violation of County Ordinance(s); and
- E. Any other person(s) identifiable as a responsible party(s).

13.400 Priority

If a hearing is requested, a stop work or stop use order shall be given priority for court appearance over all other code enforcement citations and be heard by the Justice of the Peace on the next scheduled Court date.

13.500 Violation of Order

If the responsible party(s) fails to obey the order, the Code Enforcement Officer shall promptly issue a citation for violation of a stop work or stop use order. Violation of a stop work or stop use order constitutes a separate violation.

13.600 Impact on other Permits

No building permit, sanitation permit or other permit or license may be issued, or any work continued under such permits while a stop work or stop use order is in effect.

**Section 14. General Provisions**

14.100 Appeal

A decision of the Justice Court on an enforcement action may be appealed to the Circuit Court within 30 days of the date of the decision, in accordance with the requirements of Oregon Statute through 34.102 for a Writ of Review.

14.200 Remedies

The remedies provided herein shall be in addition to any other remedies provided by law.

14.300 Records

All records of enforcement proceedings shall be permanent County records. All Court orders, consent agreements and other Justice Court actions entered into after the issuance of a citation, and stop work or stop use orders shall be filed with the Justice Court. Liens shall be filed with the County Clerk.

14.400 Severability Clause

If any section, subsection, provision, clause or paragraph of this ordinance is adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance.

It is hereby expressly declared that every other section, subdivision, paragraph, provision or clause of this ordinance would have been enacted irrespective of the enactment or the validity of the portion declared or adjudged unconstitutional or invalid.

14.500 Amendment Procedure

Morrow County Court shall have the authority to order this Ordinance to be amended. During a comment period lasting a minimum of 20 days after notice of publication the County Court shall hold two public hearings on the proposed amendments, one held in the North and one held in the South side of the county.

## **Appendix A**

### **NOXIOUS WEEDS**

Rush Skeletonweed

Yellow Starthistle

Tansy Ragwort

Dalmation & Yellow Toadflax

Mediterranean Sage

Leafy Spurge

Spikeweed

Musk Thistle

Scotch Thistle

Purple Loosestrife

Common Crupina

Whitetop

Houndstongue

## **Appendix B**

### **WEEDS OF ECONOMIC IMPORTANCE**

Poison Hemlock  
Canada Thistle  
Jointed Goatgrass  
St. Johnswort  
Perennial Sowthistle  
Field Bindweed  
Cereal Rye  
Johnsongrass  
Knapweeds-Russian, Diffuse, Spotted  
Field Dodder  
Water Hemlock  
Medusahead Rye  
Puncturevine  
Kochia  
Perennial Pepperweed  
Myrtle Spurge  
Ventenata