

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).