

**CITY OF MORTON, WASHINGTON**  
**ORDINANCE NO. 2025-01**

**AN ORDINANCE OF THE CITY OF MORTON, WASHINGTON,  
ADOPTING A NEW CHAPTER OF THE MORTON MUNICIPAL CODE  
PROVIDING FOR PROCEDURES AND THE CREATION OF CODE  
ENFORCEMENT; AND PROVIDING FOR SEVERABILITY AND  
ESTABLISHING AN EFFECTIVE DATE.**

**RECITALS:**

WHEREAS, the City of Morton, Washington (the “City”) is a Code City under the laws of the State of Washington; and

WHEREAS, pursuant to RCW 35A.11.020, the City may adopt and enforce ordinances of all kinds relating to and regulating the City’s local or municipal affairs and appropriate to the good government of the City; and

WHEREAS, all references herein to “MMC” shall mean the “Morton Municipal Code,” and

WHEREAS, the city’s nuisance code contains all of its provisions for code enforcement; and

WHEREAS, the City is in need of a separate chapter in their municipal code for code enforcement, which shall cover all types of nuisances defined by the City, regardless of their location in the Municipal Code; and

WHEREAS, Chapter 7.48 RCW concerns public nuisances; and

WHEREAS, Chapter 9.66 RCW declares, in pertinent part: “A public nuisance is a crime against the order and economy of the state;” and

WHEREAS, Chapter 7.80 RCW provides the process for civil infractions; and

WHEREAS, RCW 35A.21.405 authorizes the City to collect a special assessment when exercising its authority under 7.48 RCW or other applicable law to abate a nuisance which threatens health or safety of the City after the City has given advance written notice to the property owner as provided therein; and

WHEREAS, the City Council finds it necessary to create a code enforcement chapter; and

WHEREAS, the Council desires to create a new chapter 1.20 MMC as set forth herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORTON, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** There is enacted a new Chapter 1.20 to Title 1 of the Morton Municipal Code entitled “Code Enforcement”.

**Section 2.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.010 Purpose.**

- A. Authority. The city of Morton adopts this chapter under the authority of Article XI, Section 11 of the state constitution, RCW 35A.11.020 and Chapter 7.48 RCW, as they now exist or are hereafter amended.
- B. Purpose. The purpose of this chapter is to establish an efficient system to enforce the regulations of the city, that will enable violations to be promptly resolved whenever possible, while providing both appropriate penalties and a full opportunity for alleged violators to have a hearing to contest the violations, and to provide for the collection of any said penalties. It is the express and specific purpose and intent of this chapter to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. It is also the express and specific purpose and intent of this chapter that no provision nor any term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers or employees. Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the city, its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city, its officers, employees or agents.

**Section 3.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.020 Applicability.**

- A. Civil enforcement of the provisions of this Code or the terms and conditions of any permit or approval issued pursuant to this Code may be governed by this chapter unless other more specific provisions apply. This chapter may be used to address or enforce the code against any violation. Aiding or abetting a violation of another is also a violation. Notwithstanding any provision to the contrary, any civil enforcement of the provisions of this Code or the terms and conditions of any permit or approval issued pursuant to this Code is in addition to, and does not preclude or limit, any other forms of enforcement available to the City including, but not limited to, criminal proceedings or sanctions, nuisance and injunction actions, or other civil or equitable actions to abate, discontinue, correct, or discourage unlawful acts in violation of this code. Code enforcement officers are authorized to enforce the Code using the provisions and procedures of this chapter.
- B. The city mayor, upon concurrence of the city attorney, may file for injunctive or other civil relief in superior court regarding violations of this code. The city, in its discretion, may file an abatement action pursuant to chapter 7.48 RCW at any time. The enforcement procedures are nonexclusive and shall be supplemental to any enforcement procedures otherwise provided by law.

**Section 4.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.030 Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise, or they are more specifically defined in a subchapter, section, or code provision. Terms not defined shall be given their usual and plain meaning.

“Abate” means to act to stop an activity and/or to repair, replace, remove, or otherwise remedy a condition, when such activity or condition constitutes a violation of this code or a city regulation, by such means and in such a manner and to such an extent as the applicable department director, enforcement officer, or other authorized official determines is necessary in the interest of the general health, safety, and welfare of the community. For the purposes of this chapter, the verbs “abate” and “correct” shall be interchangeable and have the same meaning.

“Act” means doing or performing something.

“City” means the city of Morton, Washington.

“Civil penalty” or “monetary penalty,” as used in any code, ordinance, or regulation of the city, shall be deemed to have the same meanings as used in this chapter.

“Code” means the Morton Municipal Code.

“Code enforcement officer” or “enforcement officer” means the city’s code enforcement officer(s); the building official; building inspectors; construction inspectors; the fire marshal or his or her designee; fire inspectors; the chief of the Morton police department or his or her designee; the director of the community development department or his or her designee; the director of the public works department or his or her designee; or any other person or persons assigned or directed by the city mayor or his or her designee to enforce the regulations subject to the enforcement and penalty provisions of this chapter.

“Correction notice” means a written statement issued by a code enforcement officer, notifying a person that property or work under his or her control is in violation of one or more regulations and informing such person that a notice of civil violation may be issued and/or an infraction or criminal charges filed if the violations are not abated.

“Costs” means, but is not limited to, contract expenses and city employee labor expenses incurred in abating a nuisance; a rental fee for city equipment used in abatement; costs of storage, disposal, or destruction; legal expenses and attorneys’ fees associated with civil judicial enforcement of abatement orders or in seeking abatement orders; and any other costs incurred by the city, excluding fees and expenses associated with appeals authorized by this code or by state law.

“Day” or “days” means one or more calendar days, unless expressly stated otherwise in a given section or subsection. In addition, any portion of a 24-hour day shall constitute a full calendar day.

“Emergency” means an action that must be undertaken immediately or within a time frame too short to allow full compliance with this chapter, in order to avoid an immediate threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

“Hearing examiner” means the Morton hearing examiner and the office thereof, as established pursuant to Section 1.20.260 MMC.

“Knowledge” means being aware of a fact or circumstance or having information which would lead a reasonable person in the same situation to believe a fact or circumstance exists. A person acts knowingly or with knowledge when that person either is aware of one or more facts, circumstances, or results, which are described by an ordinance defining an offense, or has information which would lead a reasonable person in the same situation to believe that facts, circumstances, or results exist which are described by an ordinance defining an offense.

“MMC” means the Morton Municipal Code.

“Mortgagee” means a financial institution, including a bank, credit union or other commercial lender, which holds mortgaged property as security for repayment of a loan.

“Notice of violation” or “notice of civil violation” means a written statement, issued by a code enforcement officer, which contains the information required under MMC 1.20.170 or otherwise required by law, and which notifies a person that he or she is responsible for one or more civil violations of the Morton Municipal Code.

“Omission” means a failure to act.

“Owner” means any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the personal representative or executor or administrator of the estate of such person if ordered to take possession of real property by a court, as well as a bankruptcy trustee.

“Person” means any individual, firm, business, association, partnership, corporation, or other legal entity, public or private, however organized, or any other group acting as a unit, or agent thereof. Because “person” shall include both human beings and organizational entities, any of the following pronouns may be used to describe a person: he, she, or it.

“Person responsible for the violation”, “violation”, “responsible person”, or “person responsible” means any of the following: a person who has titled ownership or legal control of the property or structure that is subject to the regulation; an occupant or other person in control of the property or structure that is subject to the regulation; a developer, builder, business operator, or owner who is developing, building, or operating a business on the property or in a structure that is subject to the regulation; a mortgagee that has filed an action in foreclosure on the property that is subject to the regulation, based on breach or default of the mortgage agreement, until title to the property is transferred to a third party; a mortgagee of property that is subject to the regulation and has not been occupied by the owner, the owner’s tenant, or a person having the owner’s permission to occupy the premises for a period of at least 90 days; or any person who created, caused, participated in, or has allowed a violation to occur.

“Regulation” means and includes any of the following, as now enacted or hereafter amended:

1. All Morton Municipal Code provisions;

2. All ordinances of the City of Morton; and
3. All standards, regulations, and procedures adopted by the city pursuant to a city ordinance or resolution;
4. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement entered into with the city, pursuant to code provisions;
5. A written order of the hearing examiner that has been served as provided in this chapter;
6. Chapter 7.48 RCW and Chapter 9.66 RCW, as they now exist or are hereafter amended; and
7. All state laws or regulations adopted by City Ordinance.

“Repeat violation” means, as evidenced by the prior issuance of a correction notice or a notice of violation, a subsequent violation that has occurred on the same property or that has been committed by a person responsible for the prior violation elsewhere within the city of Morton. To constitute a repeat violation, the violation need not be the same violation as the prior violation. The violation of a written order of the hearing examiner that has been served as provided in this chapter shall constitute a repeat violation. A repeat violation may involve the same condition, action, or omission as a previous violation. A repeat violation may also involve noncompliance with the corrective action noted in the notice of violation which results in the issuance of an additional order.

“Right-of-way” means land owned, dedicated, or conveyed to the public or a unit of government, used primarily for the movement of vehicles or pedestrians and providing for access to adjacent parcels, with the secondary purpose of providing space for utility lines and appurtenances and other devices and facilities benefiting the public. “Right-of-way” includes, but is not limited to, any street, easement, sidewalk, or portion thereof under the jurisdiction of the city.

“Stop work order” means an order issued pursuant to this chapter, or City building code, by the code enforcement officer under the city’s police power authority in response to an actual or potential threat or risk to the health, safety, or welfare of people, property, city infrastructure, or the environment.

“Violation” or “civil violation” or “civil infraction” means an act or omission contrary to a regulation as defined in this section. A violation continues to exist until abated to the satisfaction of the city, with each day or portion thereof in which the violation continues constituting a separate violation.

**Section 5.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.040 Declaration of public nuisance.**

In addition to the penalties provided by this chapter, any condition caused or allowed to exist in violation of any of the provisions of this code is a public nuisance and all remedies given by law for the prevention and abatement of nuisances shall apply to any such nuisance or person responsible therefor, regardless of the institution or imposition of criminal or civil remedies stated herein.

**Section 6.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.050 General provisions.**

- A. No Liability. No provision or any term used in this chapter is intended to impose any duty upon the city, nor any of its officers, employees, or agents, which would subject them to damages in a civil action.
- B. No Basis for Appeal. The provisions of this chapter detailing administration of code compliance procedures are not to be construed as creating a substantive basis for appeal or a defense of any kind to an alleged violation.
- C. Abatement Fund Established. All monies collected from the assessment of civil penalties shall be allocated to support expenditures for abatement, and shall be accounted for through either creation of an account in the fund for such costs, or other appropriate accounting mechanism.
- D. Scope of Prohibited Acts. Whenever in this code or other city ordinance any act or omission is made unlawful, such act shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

**Section 7.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.060 Conflicts.**

In the event a conflict exists between the enforcement provisions of this chapter and the enforcement provisions of any international or uniform code, statute, or regulation that is adopted in the Morton Municipal Code and subject to the enforcement provisions of this chapter, the enforcement provisions of this chapter will prevail, unless the enforcement provisions of this chapter are preempted or specifically modified by said code, statute, or regulation. In the event of a conflict between this chapter and any other provision of this code or city ordinance providing for a civil penalty, the more specific provision shall control.

**Section 8.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.070 Obligations and Liability of Persons Responsible.**

- A. Joint and Several Liability. Responsibility for violations of the codes enforced under this chapter is joint and several, both as to duty to correct and to payment of monetary penalties and costs, and the city is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the city required to take action against all persons potentially responsible for a violation.
- B. Obligations of persons responsible for code violations.
  - 1. It shall be the responsibility of any person responsible for a code violation to bring the property into code compliance. Payment of civil penalties, applications for permits, acknowledgment of stop work orders, and compliance with other remedies do not substitute for performing the corrective work required and having the property brought into compliance with city ordinances.
  - 2. Transfer of Property-unlawful. It shall be unlawful for the owner of any dwelling unit, structure, or property who has been issued an enforcement action to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit, structure, or property to another until the provisions of the enforcement action have been complied with, or until such owner has first furnished the grantee, transferee, mortgagee, or lessee a true copy of the enforcement action and shall furnish to the code enforcement officer a signed and notarized statement

from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such enforcement action and fully accepting the responsibility without condition for making the corrections or repairs required by the enforcement action and/or code enforcement officer.

3. After issuance of an enforcement action and after the person(s) responsible for a violation has come into compliance, the violator shall notify the code enforcement officer in writing and the code enforcement officer may, after an inspection to determine if the violations have been brought into compliance, issue a written determination of compliance. If a written determination of compliance is issued, the code enforcement officer will provide copies of the determination to each person originally named in the enforcement action.

**Section 9.** Section 1.20.00 of the Morton Municipal Code is hereby created to state:

**1.20.080 Separate Offense.**

Any person violating the code is responsible for a separate offense for each and every day or portion of any day in which any violation of this code is committed, continued, or permitted by any such person, and such person is punishable accordingly.

**Section 10.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.090 Computation of Time.**

In computing any period of time prescribed or allowed by this code, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day, which is neither a Saturday, Sunday, nor legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

**Section 11.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.100 Interference With Code Enforcement and Intimidation of Employees - Unlawful.**

- A. Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve a notice of violation, notice of violation, stop work order, or emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation shall be guilty of a gross misdemeanor.
- B. Intimidation of Employees. Threats, intimidation, or other violations of public peace directed against an employee engaged in lawful action upon private property are unlawful and may subject that person and the owner of the property, as applicable, to legal action.

**Section 12.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.110 Service of documents.**

- A. Methods of Service. For purposes of this chapter, Service of documents related to code enforcement, such as correction notices, notices of civil violation, stop work orders, etc. (hereinafter “document”), shall be accomplished by one of the following methods; provided, that civil infractions shall be served as provided in Chapter 7.80 RCW and criminal misdemeanors and gross misdemeanors shall be served as provided by applicable law:

1. "Personal Service" is accomplished by handing the document to the person subject to the document or leaving it at his or her last known dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or leaving it at his or her office or place of employment with a person in charge thereof. Personal Service may also be accomplished by the hearing examiner or his or her assistant handing any order, ruling, decision, or other document to a person prior to, during, or after a hearing.
  2. "Service by mail" is accomplished by sending the document by regular first class mail to the last known address of the person subject to the document. The last known address shall be an address provided to the city by the person to whom the document is directed. If an address has not been provided to the city, the last known address shall be any of the following as they appear at the time the document is mailed: the address of the property where the violation is occurring, as reflected on the most recent equalized tax assessment roll of the county assessor or the taxpayer address appearing for the property on the official property tax information website for Lewis County; the address appearing in any database used for the payment of utilities for the property at which the violations are occurring; or the address of the person to whom the documents are being sent that appears in the Washington State Department of Licensing database.
  3. "Service by posting" is accomplished by affixing a copy of the document in a conspicuous place on the subject property or structure, or as near to the affected property or structure as feasible, with at least one copy of such document placed at an entryway to the property or structure if an entryway exists.
  4. "Service by publication" is accomplished by publishing the document as set forth in RCW 4.28.100 and 4.28.110, as currently enacted or hereafter amended.
- B. Service – When Complete. If Service is accomplished by personal Service, Service shall be deemed complete immediately. If Service is accomplished by mail, Service shall be deemed complete upon the third day following which the document is placed in the mail, unless the third day falls on a Saturday, Sunday, or legal holiday, in which event Service shall be deemed complete on the first day other than a Saturday, Sunday, or legal holiday following the third day. If Service is accomplished by posting, Service shall be deemed complete upon the fourteenth day following the day upon which the document is posted. If Service is accomplished by publication, Service shall be deemed complete upon the final publication of the document as set forth in RCW 4.28.110.
- C. Proof of Service – Due Diligence. Proof of Service shall be made by written affidavit or declaration under penalty of perjury executed by the person effecting the Service, declaring the time and date of Service and the manner by which Service was made. If Service was made solely by posting or publication, the proof of Service shall include a statement as to what steps were used in attempting to serve personally and by mail the person at whom Service of the document is directed. If Service was made by posting, a photograph of the posting may be taken and retained by the city as documentation.
- D. Additional Proof of Service Not Necessary. No additional proof of Service beyond the requirements in this chapter shall be required by the hearing examiner or other entity. Any failure of the person to whom a document is directed to observe a document served by posting or publication shall not invalidate Service made in compliance with this section, nor shall it invalidate the document.

**Section 13.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:



**1.20.120 Code Enforcement Officer Authority and administration.**

- A. Authority. The code enforcement officer shall have the authority to administer and enforce this chapter and is authorized to adopt procedures, policies, rules, or guidelines; conduct inspections; and prepare the forms necessary to carry out the purposes of this chapter. The code enforcement officer may seek assistance from city departments, other public agencies or private contractors to resolve code violations. The code enforcement officer may determine whether a violation has occurred. Once the code enforcement officer has reasonable cause to determine that a violation has occurred, the violation shall be documented, and the code enforcement officer may conduct or take all appropriate or necessary inspections, investigations, and actions. The code enforcement officer shall not be required to notify any person when the code enforcement officer determines that no violation has occurred.
- B. Enforcement Actions. In order to promote compliance with the code and/or to discourage public nuisances, the code enforcement officer may, in accordance with applicable law and in response to inspections, field observations, witness statements, relevant documents, reports, investigations, reliable complaints, or other information available, determine that violations of the Morton Municipal Code have occurred are or may be occurring, and, without limitation, may take the following actions, in whole or in part, and in any order appropriate to the violation:
  - 1. Issue corrective action notices and/or notices of violations, execute voluntary correction agreements, assess civil penalties, and recover costs;
  - 2. Issue civil infractions;
  - 3. Require abatement, and if such abatement is not timely completed by the person or persons responsible for a code violation, undertake the abatement and charge the reasonable costs of such work;
  - 4. Order work stopped at a property by means of a stop work order;
  - 5. Suspend, revoke, or modify any permit, license, or approval previously issued by the city; and
  - 6. Forward a written statement providing all relevant information relating to the violation to the office of the city attorney with a recommendation to prosecute willful and knowing violations as misdemeanor offenses/civil abatement in Superior Court.
- C. Criteria for Determination. When determining what kind of enforcement action to take, the code enforcement officer may consider a number of relevant factors and criteria, including but not limited to life safety considerations, the severity of the public impact of the violation, the time and cost to abate the violation, the likelihood to recover any costs of abatement, and the available city resources to abate the violation.
- D. Enforcement Actions in Writing. All enforcement actions will be in writing unless otherwise provided in this chapter. Failure to use a specific form or type of enforcement action as described herein, or minor defects in the form of such enforcement action, shall not affect the validity thereof.
- E. Verification of Compliance. The Code Enforcement Officer shall make such investigations or inspections as necessary or appropriate to confirm compliance with any enforcement action.
- F. Administrative Conferences-optional. An informal administrative conference may be conducted by the city at any time for the purpose of facilitating communication among

concerned persons and providing a forum for efficient resolution of any violation. Interested parties shall not unreasonably be excluded from such conferences. The City is not required, nor can it be compelled to hold such informal administrative conferences.

- G. The provisions of this chapter shall in no way adversely affect the rights of the owner, lessee, or occupant of any property to recover all costs and expenses incurred and required pursuant to this chapter from any person causing such violation.

**Section 14.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.130 Violations.**

- A. The violation of any regulation and/or code provision shall be unlawful. Violations may be enforced by issuing notices of violation and, if necessary, by filing civil infractions. In addition, any violation of this code shall constitute a misdemeanor, unless otherwise designated as a gross misdemeanor, and the city shall have discretionary authority to enforce a violation as either a civil infraction or civil violation pursuant to this chapter or as a criminal misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than 90 days or by a fine in an amount fixed by the court of not more than \$1,000 or by both such imprisonment and fine. A gross misdemeanor is punishable by a fine of not more than \$5,000 or by imprisonment for not more than 364 days or by both such fine and imprisonment.
- B. It shall be unlawful for any person to violate or fail to comply with the requirements of the Morton Municipal code or City Ordinances (as they currently exist, are amended, or as superseded).
- C. Additionally, no person shall violate or fail to comply with any condition set forth in any city zoning concomitant agreement, any condition imposed by any development permit, or any condition imposed by the city's environmental policy adopted pursuant to Titles 17 and 18 MMC, as now enacted or hereafter amended.
- D. Code enforcement officers are authorized to enforce the code using the provisions and procedures of this chapter; provided, however, that enforcement under this chapter is in addition to, and does not preclude or limit, any other forms of enforcement available to the city including, but not limited to, criminal proceedings or sanctions, nuisance and injunction actions, rights to file and enforce liens, or other civil or equitable actions to abate, discontinue, correct, or discourage unlawful acts in violation of this code.
- E. Nothing in this chapter or in other chapters of the Morton Municipal Code shall prevent code enforcement officers or any other officers of the city of Morton or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property. The city's costs of abating any such nuisance or endangerment summarily or otherwise abated shall be recoverable under this chapter as well as in the same manner and to the same extent as costs of abating nuisances or endangerment under any other provisions of this code, in addition to or as an alternative to any other rights or remedies the city may possess.

**Section 15.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.140 Corrective Action Notice**

- A. Authority. The code enforcement officer may issue a corrective action notice to the person responsible for a violation. The corrective action notice shall not impose civil or criminal penalties, and the corrective action notice is not subject to appeal. This section is not applicable to repeat violations as defined in MMC 1.20.030.

- B. Content. A corrective action notice shall contain the following information to the extent known:
1. The address and/or location of the code violation.
  2. A legal description of the real property or the Lewis County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators.
  3. The name(s) of the responsible person(s) and the property owner (if different than the responsible person).
  4. A statement that the city has found the named person has or likely has committed code violation(s), and a brief description of the violation(s).
  5. A statement of the specific authority (e.g., regulation, administrative order, ordinance, resolution, rule, permit condition, or other provision) that was or is being violated.
  6. A statement that the corrective action notice represents a determination that code violation(s) have or likely have occurred, and that the responsible person may be subject to civil fines and/or criminal penalties.
  7. A statement of the amount of the civil fine that may be assessed if the violation(s) are not corrected as required.
  8. A statement of the corrective or abatement action(s) required to be taken and that all required permits to perform the corrective or abatement action must be obtained from the proper issuing agency.
  9. A statement advising the responsible person of the responsible person's duty to notify the city of all actions taken to achieve or address compliance with the corrective action notice.
  10. A statement advising that a failure to correct the violation(s) cited in the corrective action notice may lead to additional enforcement actions, administrative orders, or the modification of any pending or existing city approvals.

**Section 16.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.150 Voluntary correction agreement.**

- A. General. When the city determines that a violation has occurred, a code enforcement officer may attempt to secure the voluntary correction of a violation by attempting to contact the person responsible for the violation, explaining the violation, and requesting correction. The city may enter into a written voluntary correction agreement with any person causing, allowing, or participating in the violation, including the property owner. A voluntary correction agreement may be instead of, in lieu of, or in conjunction with a notice of violation. Voluntary correction efforts need not be made where the nature of the violation creates a risk of imminent harm to public health or safety or where it is a repeat violation.
- B. Content. A voluntary correction agreement is a written contract between the property owner and the city and signed by both parties, where the property owner agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall be completed on a form approved by the code enforcement officer and the office of the city attorney and shall, at minimum, include the following:
1. The name and address of the person responsible for the violation;

2. The name(s) of the responsible person(s) and the property owner (if different than the responsible person).
3. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
4. A legal description of the real property and the Lewis County tax parcel number where the violation(s) occurred or is located, or a description identifying the property by commonly used locators.
5. A description of the violation(s) and a reference to the code(s) which has been violated;
6. The necessary corrective action to be taken, and a date and time by which the correction must be completed;
7. An agreement by the person responsible for the violation that the city may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;
8. An agreement by the person responsible for the violation and/or the owner(s) of property on which the violation has occurred or is occurring that, if the terms of the voluntary correction agreement are not met, the city may enter the property, abate the violation, and recover its costs and expenses as provided in this chapter;
9. An agreement that by entering into the voluntary correction agreement, the person responsible for the violation waives the right to a hearing before the examiner under this chapter regarding the violation, any penalty, and required corrective action;
10. A statement indicating that, pursuant to MMC 1.20.170, a notice of civil violation may be issued with each violation constituting a separate offense subject to civil penalties, or, alternatively, civil infraction or criminal charges may be filed; and
11. A statement that failure to comply with the terms of the agreement shall constitute a misdemeanor.
12. An acknowledgement by the property owner that if the city determines that such person does not meet the obligations specified in the Voluntary Correction Agreement, the following may occur:
  - (i) The city may impose any remedy authorized by this chapter, including issuance of civil penalties and assessment of all costs and expenses incurred by the city to pursue code enforcement;
  - (ii) The city may initiate criminal code enforcement proceedings against the owner for violation of any applicable code provision;
  - (iii) The city may enter the property and perform abatement of the violation by the city, and assess the costs incurred by the city to pursue code compliance and to abate the violation, including reasonable legal fees and costs, all without having to obtain a warrant or other court order;
  - (iv) If a penalty is assessed, and if any assessed penalty, fee or cost is not paid, the city may charge the unpaid amount as a lien against the property where the code violation occurred, and that the unpaid amount may be a joint and several personal obligation of all persons responsible for the violation(s);

- (v) That by entering into the Voluntary Correction Agreement, the property owner thereby admits that the conditions described in the Voluntary Correction Agreement existed and constituted code violation(s); and
  - (vi) The city may suspend, revoke, or limit any development permit obtained or to be sought by the person responsible for the code violation(s).
13. A statement that in consideration of the city's agreement to enter into a Voluntary Correction Agreement, the property owner understands that such person has the right to be served with a notice of violation or stop work order for any violation identified in the Voluntary Correction Agreement, has the right to administratively appeal any such notice of violation or stop work order, and is knowingly and intelligently waiving those rights. The Voluntary Correction Agreement is a final, binding agreement, it is not a settlement agreement, and its contents are not subject to appeal.
- C. Extension of Voluntary Correction Period or Modification of Required Actions. An extension of the deadline for voluntary correction, or a modification of any required corrective action, may be granted by the code enforcement officer if the person responsible for the violation has, in the opinion of the code enforcement officer, shown due diligence or made substantial progress in correcting the violation but unforeseen circumstances have rendered full and timely correction unattainable within the original deadline. All modifications or time extensions shall be in writing, signed by the person responsible for the violation and an enforcement official. Such request shall be made in writing prior to the stated time limit for compliance and clearly establish the need for the extension.
- D. Revocation of Deadline for Compliance. The original deadline for compliance, or any extension for compliance previously granted by the code enforcement officer, may be revoked and immediate compliance required where, in the opinion of the code enforcement officer, circumstances make immediate correction necessary to avoid an imminent risk of injury to persons or property.
- E. Penalty for noncompliance. Violation of the terms of a voluntary correction agreement is a misdemeanor. Further, the city may enter the property, abate the violation, and recover all costs and expenses of abatement in accordance with the provisions of this chapter.
- F. Failure to Comply with Voluntary Correction Agreement.
- 1. Abatement by the City. In addition to any other remedy provided for in this chapter, the city may abate the violation in accordance with MMC 1.20.310 or as otherwise provided by law if the terms of the voluntary correction agreement are not met.
  - 2. Penalties and Costs. If the terms of the voluntary correction agreement are not met, the person responsible for the violation may be issued a notice of civil violation and assessed a monetary penalty in accordance with this Chapter, plus all costs and expenses of abatement. Alternatively, the city may file a civil infraction or criminal charges.

**Section 17.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.160      Infractions.**

- A. Enforcement officers and officials are authorized to issue civil infractions to enforce the provisions of the Morton Municipal Code except those provisions that are either specifically

designated as crimes, specifically indicated as not being infractions, or designated as traffic infractions.

- B. When the city determines that it is appropriate to enforce violations of this code as civil infractions rather than civil or criminal violations as otherwise provided in this chapter, or if the city is unable to obtain payment of civil fines pursuant to a notice of civil violation, enforcement officers shall file such infractions in Morton Municipal court and shall follow the provisions of Chapter 7.80 RCW. First offenses shall be class 2 civil infractions, for which the maximum penalty and the default amount shall be \$125.00, and second or subsequent violations shall be class 1 civil infractions, for which the maximum penalty and the default amount shall be \$250.00, not including fees, costs, and assessments.
- C. Chapter 7.80 RCW, as it now exists or is hereafter amended or superseded, is hereby adopted by reference to the extent that it is consistent with explicit provisions of the Morton Municipal Code, including this section.
- D. Unless otherwise provided, civil infractions under this section shall be governed by Chapter 7.80 RCW, except that, to the extent allowed by law, the rules of evidence shall not apply in any hearing held regarding civil infractions.

**Section 18.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.170 Notice of violation.**

- A. Issuance of Notice of Violation. When the city determines that a violation has occurred or is occurring, the code enforcement officer may issue a notice of civil violation to any person responsible for the violation.
- B. Monetary Penalty. A monetary penalty shall accrue for each day or portion thereof that each violation continues beyond the date set in a notice of civil violation or any hearing examiner's decision. Unless a different penalty amount for a given violation is expressly authorized or required by a more specific city code provision, the maximum penalty and the default amount shall be \$125.00 for the first violation and \$250.00 for a second or subsequent violation of the same nature or a continuing violation past a deadline set by a notice of violation, not including fees, costs, and assessments. The city may waive the monetary penalty, if corrective action is completed by the date specified in the notice of civil violation or a voluntary correction agreement. The city shall have the discretion to impose penalties in an amount lower than those shown above.
- C. Contents of Notice. The notice of civil violation shall include the following:
  - 1. The name(s) and address(es) of the person(s) responsible for the violation and the property owner (if different than the responsible person);
  - 2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
  - 3. A legal description of the real property or the Lewis County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators;
  - 4. A concise description of the violations and a reference to each specific provision(s) of the code, regulation, permit condition, notice of violation provision, or stop work order that was or is being violated;
  - 5. A statement of the corrective or abatement action(s) required to be taken and that all required permits (if applicable) to perform the corrective action must be obtained from the proper issuing agency;

6. A statement indicating that the violator must respond to the notice of civil violation within 14 days of the date of issuance, or within such other time period as specified in the notice of civil violation, by doing one of the following:
    - (i) Paying any fine and correcting the violation;
    - (ii) Entering into and complying with a voluntary correction agreement with the city;
    - (iii) Requesting a mitigation hearing and correcting the violation; or
    - (iv) Requesting a hearing to contest the violation;
  7. A statement indicating that failure to respond to the notice of violation, or failure to attend any hearing, shall result in the violation being deemed committed without requiring further action by the city, and that the monetary penalty specified in the notice shall be due to the city by the violator and further accrue as provided; and
  8. A statement indicating that payment of a monetary penalty does not relieve the person or entity named in the notice of civil violation of the duty to abate the violation, and that failure to abate may result in the issuance of additional notices of violation and/or criminal charges, with additional civil and/or criminal penalties, including the payment of costs for any abatement action taken by the city;
  9. A statement advising that if any required work is not commenced or completed within the time specified by the notice of violation, the city may proceed to abate the violations, the responsible person shall be subject to a civil penalty pursuant to MMC 1.20.290 and 1.20.170, or such other penalty provided by law, which will be assessed per each day or portion thereof that each violation continues beyond the date set for compliance until compliance with the notice of violation is achieved;
  10. A statement advising that if any assessed penalty, fee, or cost is not paid on or before the due date, the city may charge the unpaid amount as a lien against the property where the code violation occurred;
  11. A statement advising the person named in the notice of violation has the duty to notify the code enforcement officer of any actions taken to achieve compliance with the notice of violation;
  12. A statement advising that failure to comply with the notice of violation may be referred to the office of the city attorney for appropriate legal action; and
  13. Any other information the code enforcement officer deems relevant.
- D. Extension. Upon written request received prior to the correction date or time, the code enforcement officer may extend the date set for correction in order to accommodate a voluntary correction agreement or if the code enforcement officer deems the person responsible has, in the opinion of the code enforcement officer, shown due diligence and/or substantial progress in correcting the violation but circumstances render full and timely compliance under the original conditions unattainable. Such request shall be made in writing prior to the stated time limit for compliance and clearly establish the need for the extension. Such grant of an extension for time does not create a new appeal period for the underlying enforcement action.

**Section 19.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.180 Stop work order.**

- A. Issuance. Whenever a code enforcement officer determines that any work, use, activity, or conduct is a violation under the Morton Municipal Code and creates an imminent threat of injury to the health, safety, or welfare of any member of the public or will damage or injure, or

exacerbate damage or injury already caused to, any property, the code enforcement officer may issue a stop work order directing any person causing, allowing, or participating in the offending conduct to cease such use, activity or conduct immediately.

- B. Service of Order. Service of the stop work order shall generally be accomplished as set forth in MMC 1.20.110(A)(3).
  - C. The stop work order shall state the reasons for the order and may be appended to, or incorporate by reference, a notice of violation. The stop work order shall take effect immediately upon Service and may be appealed under the procedures set forth in this chapter. During any such appeal, the stop work order shall remain in effect.
  - D. Effect of a Stop Work Order. When a stop work order has been issued, posted and/or served pursuant to this section, it is unlawful for any person to whom the order is directed or any person with actual or constructive knowledge of the order to conduct the activity or perform the work covered by the order, even if the order has been appealed, until the code enforcement officer has removed the copy of the order, if posted, and issued written authorization for the activity or work to be resumed. In addition, a monetary penalty shall accrue for each day or portion thereof that a violation of a stop work order occurs, in the same amounts as under MMC 1.20.170. In addition to such criminal or monetary penalties, the city may enforce a stop work order pursuant to any other provision of this chapter and enforce it in superior court.
  - E. Removal of a Stop Work Order. When a stop work order has been posted in conformity with the requirements of this chapter, removal of such order without the authorization of the city, or the hearing examiner if the matter has been heard by the hearing examiner, is unlawful and a violation.
- C. Emergencies. Where an emergency exists, the code enforcement officer shall not be required to give a written notice prior to stopping the activity but will follow up an oral stop work order with a written stop work order within twenty-four hours.

**Section 20.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.190      Supplementation, revocation, modification of notice of violation or stop work order.**

- A. The city may add to, revoke, in whole or in part, or otherwise modify a notice of violation or stop work order by issuing a written supplemental for the following:
  - 1. If the original notice of violation or stop work order was issued in error;
  - 2. Whenever there is new information or change of circumstances; or
  - 3. If a party to a notice of violation or stop work order was incorrectly named; or
  - 4. For any other reason as determined by the code enforcement officer.
- B. The supplemental notice of violation or stop work order shall be governed by the same procedures and time limits applicable to all notice of violations and stop work orders contained in this chapter.

**Section 21.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.200      Recording.**

- A. A notice of violation, voluntary correction agreement, or stop work order may be recorded by the city with the Lewis County Auditor's Office, or its successor agency, when violations continue to exist on the property, which the property owner did not abate. Recording may occur any time after the correction date in the notice of violation or voluntary correction agreement,



or any time after a stop work order is issued. Furthermore, any order issued by the Hearing Examiner or any Court of competent jurisdiction finding a nuisance exists on the property may be recorded by the City with the Lewis County Auditor's Office, or its successor agency at any time.

- B. If the notice of violation, voluntary correction agreement, or stop work order is recorded, the code enforcement officer shall record a release of the notice of violation, voluntary correction agreement, or stop work order only when all violations specified in the recorded document have been corrected or abated, and all the civil penalties have been paid in full.

**Section 22.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.210 Procedures for responding to code complaints and violations.**

- A. Generally. A person who has been served with a notice of civil violation must respond to the notice within 14 days of the date the notice is served or within such other time period as specified in the notice of civil violation. A person may respond to the notice of civil violation by:
  - 1. Paying the amount of the monetary penalty as set forth in the notice of violation. Partial payment or payment using a check that is rejected for insufficient funds shall not be deemed payment under this subsection. Payment of the fine shall not relieve the person or entity responsible for the violation from the duty to correct or abate the violation. Additional notices of violation may be issued if the violation goes uncorrected.
  - 2. Entering into a voluntary correction agreement with the city.
  - 3. Contesting the notice of civil violation by requesting a contested hearing in writing and sending the request to the city as described in subsection B. of this section.
  - 4. Seeking to mitigate the monetary penalty by requesting a mitigation hearing to explain the circumstances surrounding the violation. The request to mitigate must be made in writing and sent to the city with a \$100.00 filing fee as described in subsection B. of this section. Requesting to mitigate the penalty shall not relieve the person responsible for the violation from the duty to correct or abate the violation. Additional notices of violation may be issued if the violation goes uncorrected.
- B. Method of Response. The person or entity to whom a notice of civil violation has been issued may respond by mailing or hand-delivering the response to the city clerk. Mailed responses must be received no later than the fourteenth day from the date of Service of the notice of violation or such other day as specified in the notice of violation. Hand-delivered responses must be brought to the city clerk no later than 4:30 p.m. on the fourteenth day after Service or such other day as specified in the notice of violation; provided, that where the fourteenth or other specified day falls on a weekend or holiday, the deadline shall be extended to the next regular business day. Telephone, facsimile, or email responses shall not satisfy the requirements of this section. The response deadline may be stayed for a time certain by the code enforcement officer, if the responsible person or entity is engaged in active discussions with the code enforcement officer and the code enforcement officer determines there is a reasonable probability that such discussions may result in compliance.
- C. If the person to whom the notice of civil violation is issued fails to respond as required in the notice of civil violation and this chapter, the violation(s) shall be deemed committed without requiring further action by the city or the city's hearing examiner, and the person to whom the notice of civil violation was issued shall owe the monetary penalty indicated.

**Section 23.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.220 Additional remedies.**

**A. Suspension, Revocation, or Limitation of Permit.**

1. In accordance with applicable law, the city may suspend, revoke, or modify any permit issued by the city whenever:
  - (i) The permit holder has committed a violation in the course of performing activities subject to that permit;
  - (ii) The permit holder has interfered with the authorized representatives of the city in the performance of the authorized representatives' duties related to that permit;
  - (iii) The permit was issued in error or on the basis of materially incorrect information supplied to the city;
  - (iv) Permit fees or costs were paid to the city by check and returned from a financial institution marked nonsufficient funds (NSF) or canceled; or
  - (v) There is a permit or approval that is subject to critical area review and the applicant has failed to disclose a change of circumstances on the development proposal site which materially affects an applicant's ability to meet the permit or approval conditions, or which makes inaccurate the critical area study that was the basis for establishing permit or approval conditions.
2. Such suspension, revocation, or modification shall be authorized via issuance of a notice of violation or stop work order pursuant to this chapter.
3. Notwithstanding any other provision of this chapter, the city may immediately suspend operations under any permit by issuing a stop work order.

**B. Denial of Permit.**

1. The city may deny a permit when:
  - (i) Any person owning the property or submitting the development permit for the property has been found in violation of any ordinance, resolution, regulation of the city; and/or
  - (ii) Any person owning the property or submitting the development permit for the property has been found in violation and remains in violation of the conditions of any permit, notice of violation, or stop work order issued pursuant to any such ordinance, resolution, or regulation.
2. In order to further the remedial purposes of this chapter, such denial may continue until the violation is cured, accepted as complete by the city, and by payment of any civil penalty imposed for the violation, except that permits or approvals shall be granted to the extent necessary to accomplish any required compliance action(s).

**Section 24.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.230 Scheduling of hearing to contest or mitigate – Correction prior to hearing.**

- A. Notice and Scheduling of Hearing.** Upon the timely filing of a request for a hearing to contest a violation or to mitigate the penalty, the matter shall be scheduled to be heard at the next available appearance by the hearing examiner that is a minimum of 14 but no later than 60 calendar days after the date the request was received by the city. Notice of the hearing date and time shall be served by regular first class mail to the address of the party who requested

the hearing. The date and time for any hearing may be rescheduled by the hearing examiner for good cause upon the motion of a party or the hearing examiner.

- B. **Correction of Violation Prior to Hearing.** The hearing may be cancelled and the party requesting the hearing need not appear if, at least two business days prior to the scheduled hearing, the code enforcement officer determines that the violation has been satisfactorily corrected or abated, and the monetary penalty paid in full. Where the scheduled hearing involves a repeat violation as defined in this chapter, the hearing shall not be cancelled unless the new violation has been corrected or abated to the satisfaction of the code enforcement officer and the monetary penalty and costs for the new violation(s) and any monetary penalty and costs owing for the previous violation(s) have been paid in full.

**Section 25.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.240 Contested hearing – Procedure.**

The hearing examiner shall conduct a contested violation hearing when such hearing is properly and timely requested. The city and the person or entity to whom the notice of civil violation was issued may participate in the hearing, and each party or its legal representative may call witnesses and present evidence and rebuttal, subject to the following:

- A. Where not in conflict with a more specific provision of this chapter, hearings shall be conducted in accordance with Section 1.20.260 MMC, or such other chapter concerning the Hearing Examiner.
- B. The city shall have the burden of proving by a preponderance of the evidence that a violation has occurred.
- C. The parties are responsible for securing the appearance of any witnesses they may wish to call. Neither the city nor the hearing examiner shall have the burden of securing any witnesses on behalf of the person who is contesting the violation(s) or seeking to mitigate the penalties.
- D. Formal rules of evidence shall not apply to any such hearing, and the hearing examiner shall allow hearsay testimony by the parties and not require proof of chain of custody for evidence that is presented; provided, that the hearing examiner shall determine the weight to be assigned to any evidence presented.
- E. Any notes, reports, summaries, photographs, or other materials prepared by the parties shall be admitted into evidence if requested; provided, that the parties are free to argue the weight that should be assigned by the hearing examiner to any evidence submitted.

**Section 26.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.250 Mitigation hearing – Procedure.**

The hearing examiner shall conduct a hearing to mitigate the penalty on a violation when such hearing is properly and timely requested; provided, that in the event a person has requested a hearing to contest a violation and prior to the start of the hearing indicates to the hearing examiner a desire to mitigate rather than contest, the examiner shall permit the person to seek mitigation of the monetary penalty. The mitigation hearing shall be conducted according to the following general procedures:

- A. The person responsible for the violation shall be given the opportunity to explain or provide evidence regarding the nature of the violation, why the violation exists, why the violation has

not been abated or corrected, and any other information the hearing examiner determines is relevant.

- B. The city shall be given the opportunity, at its discretion, to provide evidence of the nature of the violation, evidence to rebut assertions made by any party, and any other information or evidence the hearing examiner deems to be relevant.

**Section 27.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.260 Hearing examiner.**

**A. Powers and Duties.**

1. There is created the office of hearing examiner.
2. Hearing examiner(s) shall be appointed by the mayor, subject to approval by the Council.
3. Hearing examiner(s) shall be licensed to practice law in the state.
4. Hearing examiner(s) shall be responsible for presiding over all hearings brought pursuant to this chapter as well as other administrative matters over which they may be requested to preside.
5. Hearing examiner(s) shall have the power to:
  - a. Administer oaths and affirmations and examine witnesses;
  - b. Issue subpoenas upon the request of any party. The office of the city attorney and the office of the city attorney's designee are also authorized to issue subpoenas. When so required by the hearing examiner, the applicant for the subpoena shall show to hearing examiner's satisfaction the general relevance and reasonable scope of the evidence sought;
  - c. Establish other rules and procedures to conduct hearings consistent with this chapter and state law;
  - d. Regulate the course of the hearing, including granting of continuances;
  - e. Hold conferences if requested by the parties;
  - f. Make and issue decisions that incorporate findings of fact and conclusions of law, and enter orders following hearings, stipulated orders and orders of default. The orders may include the following:
    - i. A requirement that the property owner abate the code violations in accordance with the manner prescribed by the code enforcement officer;
    - ii. Assessment of the monetary penalties as set forth in this chapter if the responsible person has been found to have violated the code;
    - iii. Authorization for the city or its designated agent to undertake and complete abatement, without further order of the hearing examiner, if the violation has not been completely abated within the time period set forth in the notice of violation (but such authorization will not be deemed necessary for such abatement when such abatement is allowed elsewhere in this chapter or the code);
    - iv. Assessment of the costs of the hearing against the person(s) to whom the violation was issued if the responsible person has been found to have violated the code; and
    - v. A statement notifying the person(s) to whom the order is issued that the procedure for filing an appeal is set forth in 1.20.280 MMC;

- g. Dismiss one or more of the allegations set forth in the notice of violation or stop work order upon a determination that such allegation has not been proved as required by this chapter.

**B. Decision of hearing examiner.**

1. Contents of Order. Upon the conclusion of a hearing, the hearing examiner may issue an oral decision pending issuance of the written decision. If necessary, the hearing examiner may delay issuing the written order for up to 10 business days following the hearing. In either event, the oral decision and written order shall contain findings and conclusions based on the record, which to the extent applicable includes the following information:
  - a. In mitigation hearings a statement indicating that each alleged violation has been found committed, and in contested hearings, for each alleged violation of the city code, a statement indicating whether the violation has been found committed or not committed;
  - b. For violations found committed, the monetary penalties and costs being assessed pursuant to this chapter; provided, that where the person has requested to mitigate the monetary penalty, the hearing examiner may reduce the monetary penalty for each violation, but in no case shall the penalty be reduced to an amount less than \$100.00 for each violation found committed;
  - c. For violations found committed, any required corrective actions and compliance dates;
  - d. For violations found committed, a finding that abatement of the violations by the city is authorized, at the expense of the person responsible for the violations; and
  - e. A statement notifying the person responsible for the violation that he or she is subject to additional civil and/or criminal penalties if any violation that was the subject of the hearing has not been corrected or abated as required by the hearing examiner's order.
2. Notice of Decision. The hearing examiner may cause a copy of the decision and order to be served upon the parties at the close of the hearing. When the hearing examiner requires more time to prepare a written order, or when a party fails to appear after requesting a contested hearing, the hearing examiner shall cause a copy of the decision and order to be served on the parties by mailing a copy to each party's last known address no later than 10 business days following the hearing.

**Section 28.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.270 Failure to appear—Default order.**

If the person who requests a hearing to contest a violation or mitigate the penalty then fails to appear at the scheduled hearing after having been given notice in the manner provided for by this chapter, the hearing examiner shall immediately issue a default order, which finds committed all the violations set forth in the notice of civil violation and which assesses a monetary penalty in the full amount indicated in the notice of violation. In addition, at the request of the city, the hearing examiner shall also impose upon the nonappearing party any costs to the city related to preparation for the hearing. The hearing examiner shall cause a copy of the decision to be served upon the nonappearing party by mailing a copy to the last known address of the nonappearing party within 10 business days of the hearing. Upon the motion of a party, the hearing examiner may rescind a default judgment only upon a showing of good cause to do so and only if such motion has been

brought within 30 calendar days of the date of the hearing at which the default judgment was ordered.

**Section 29.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.280 Judicial Review.**

Judicial review of a decision by the hearing examiner relating to any ordinance regulating the improvement, development, modification, maintenance, or use of real property may be sought by any person aggrieved or adversely affected by the decision, pursuant to the provisions of the Land Use Petition Act, Chapter 36.70C RCW, if applicable, or other applicable authority, if any, if the petition or complaint seeking review is filed and served on all parties within 21 days of the date of the decision. For purposes of this section, “aggrieved or adversely affected” shall have the meaning set forth in RCW 36.70C.060(2). Judicial review of all other decisions may only occur subject to the procedures of Chapter 7.16 RCW.

**Section 30.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.290 Penalties and Costs.**

- A. Authority. Any person responsible for a violation of this code may be assessed costs as provided in this section.
- B. Costs. The code enforcement officer may assess the following costs and charges for any enforcement actions, investigations, and corrective actions taken under this chapter:
  - 1. Reasonable legal fees and costs which shall include, but are not limited to, legal personnel costs and expert witness fees, both direct and related, incurred to enforce the provisions of this chapter as may be allowed by law;
  - 2. Personnel costs which shall include, but are not limited to, administrative employee costs, and law enforcement or related enforcement agencies costs, both direct and related, incurred to enforce the provisions of this chapter;
  - 3. Abatement costs as itemized by the city when undertaking an abatement of a violation under this chapter; and
  - 4. Actual expenses and costs of the city in preparing notices, specifications, and contracts; in accomplishing or contracting and inspecting the work; monitoring the property consistent with the orders of compliance; hauling, storage, disposal expenses; the costs of any required printing, mailing, or court filing fees; and the costs of recording any liens or releases of liens on title.
- C. Payment Due. Such costs are due and payable thirty days from mailing of the invoice.
- D. Continuing Duty to Abate Violations. Payment of a monetary penalty or costs pursuant to this chapter does not relieve the person responsible for the violation of the duty to correct or abate the violation. Additional notices of violation may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.
- E. Damages. In addition to any penalties or costs that may be imposed, any person violating or failing to comply with any of the provisions of this code shall be liable for all loss or damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation. Administrative costs will be charged as fifteen percent of the total amount of liability for costs, expenses, losses, or damages to the

city occasioned thereby. This clause does not establish a cause of action that may be asserted by any party other than the city. Penalties, damage, costs, and expenses may be recovered only by the city.

**Section 31.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.300 Recovery of enforcement costs.**

- A. Payment of Monetary Penalties and Costs. Any monetary penalties or costs assessed pursuant to this chapter constitute a personal obligation of the person responsible for the violation. In addition, the monetary penalties or costs assessed pursuant to this chapter may be assessed against the property that is the subject of the enforcement action. The city attorney is authorized to collect the monetary penalty or costs by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per diem monetary penalties so long as the violation continues. The city may incorporate any outstanding penalty or cost into an assessment lien if the city incurs costs of abating the violation. Any monetary penalty assessed must be paid in full to the city within 30 days from the date of Service of an uncontested notice of civil violation or any order of the hearing examiner that assesses monetary penalties.
- B. Recovery of Costs. The city shall bill its costs, including incidental expenses, of pursuing code compliance and/or of abating a violation to the person responsible for the violation and/or against the subject property. Such costs shall become due and payable 30 days after the date of the bill. The term “incidental expenses” shall include, but not be limited to, personnel costs, both direct and indirect, including attorneys’ fees incurred by the city; costs incurred in documenting the violation; the actual expenses and costs to the city in the preparation of notices, specifications and contracts, and in inspecting the work; hauling, storage and disposal expenses; the cost of any required printing and mailing; and interest. The city mayor or designee, or the hearing examiner, may in his or her discretion waive in whole or part the assessment of any costs upon a showing that abatement has occurred or is no longer necessary or that the costs would cause a significant financial hardship for the responsible party. Any challenge to the amount of the abatement costs must be made within 14 days of issuance of the bill and shall be heard by the city mayor in an informal hearing. The city mayor shall make a written determination as to whether or not the city’s costs were accurate and necessary for accomplishing the abatement.
- C. Use of Collection Agency. Pursuant to Chapter 19.16 RCW, as currently enacted or hereafter amended, the city may, at its discretion, use a collection agency for the purposes of collecting penalties and costs assessed pursuant to this chapter. The collection agency may add fees or interest charges to the original amount assigned to collections as allowed by law. No debt may be assigned to a collection agency until at least 30 calendar days have elapsed from the time that the city attempts to notify the person responsible for the debt of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid. Notice of potential assignment to collections shall be made by regular first class mail to the last known address of the person responsible for the violation; provided, that inability to ascertain a current mailing address shall not prohibit the debt from being assigned to collections.

- D. Special Assessment. Pursuant to RCW 35.21.955, the city may levy upon the property subject to an enforcement action a special assessment for the expense of any abatement undertaken, or unpaid fines, penalties, and costs issued pursuant to this chapter.
1. Prior to levying the special assessment authorized in this subsection (E), the city shall provide the owner and any identifiable mortgage holder with ten days' advance written notice that a special assessment will be levied on the property. The notice shall provide the estimated amount of the special assessment. The notice shall be sent by regular mail.
  2. The special assessment authorized by this section constitutes a lien against the property and is binding upon successors in title only from the date the lien is recorded in the county where the affected real property is located.
  3. Upon certification to the county treasurer by the city treasurer of the special assessment amount due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the city. The lien shall be of equal rank with the state, county and municipal taxes. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 15 calendar days after the assessment is placed upon the assessment roll. The city attorney may also file a lien for such costs against the real property.
- E. Continuing Duty to Abate Violations. Payment of a monetary penalty or costs pursuant to this chapter does not relieve the person responsible for the violation of the duty to correct or abate the violation. Additional notices of violation may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.
- F. The office of city attorney or the office of the city attorney's designee is authorized to take any appropriate legal action to collect monetary penalties and necessary and reasonable costs, including liens, personal obligations, assignment of claims to collection agencies, and other collection methods authorized by law.
- G. Personal Obligation. The monetary penalty, and any other fees or costs assessed pursuant to this chapter, constitutes a personal obligation of the person to whom an enforcement action is directed. Any monetary penalty, fees and/or costs assessed must be paid to the city within thirty calendar days from the date of mailing of the court's decision, hearing examiner's decision, or a notice from the city that penalties are due. Any such monetary penalty, fees, and/or costs shall further constitute a lien against the affected real property. The office of the city attorney is authorized to take all actions available to collect the monetary penalty.
- H. Lien Authorized. The city shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the abatement work was performed, or both. The lien shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on parity.



1. The city shall cause a claim for lien to be filed for record with the Lewis County Auditor's Office.
2. The claim of lien shall contain sufficient information regarding the civil violation, as determined by the city, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien. Any such claim of lien shall be verified by the city and may be amended from time to time to reflect changed conditions.

**Section 32.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.310 Abatement.**

- A. Abatement by City. The city may perform the abatement required upon noncompliance with the terms of an unappealed or uncontested notice of violation, a voluntary correction agreement, or a final order of the hearing examiner. The city may utilize city employees or a private contractor under city direction to accomplish the abatement. The city, its employees and agents using lawful means are expressly authorized to enter upon the property of the violator for such purposes. Nothing in this chapter shall prohibit the city from pursuing abatement of a violation pursuant to any other laws of the state of Washington or the city.
- B. Summary Abatement. Whenever any violation causes a condition the continued existence of which constitutes an immediate threat to the public health, safety, or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the city or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the city be entitled to recover any costs incurred for summary abatement, prior to the time that notice thereof is served on the person responsible for the violation as set forth in MMC 1.20.110.
- C. Obstruction with Work Prohibited. No person shall obstruct, impede or interfere with the city, its employees or agents, or any person who owns or holds any interest or estate in any property in the performance of any necessary act preliminary or incidental to carrying out the requirements of a notice of violation, voluntary correction agreement, or order of the hearing examiner issued pursuant to this chapter.
- D. Recovery of Expenses. All expenses and costs as set forth in this chapter incurred by the city in abating the violation shall be billed to the person responsible for the violation and shall become due and payable to the city within thirty calendar days.

**Section 33.** Section 1.20.0 of the Morton Municipal Code is hereby created to state:

**1.20.320 Right of entry - Emergency.**

In the event of an emergency presenting a threat to public health or safety or the environment, and requiring immediate action by the code enforcement officer, the code enforcement officer may enter onto any property without obtaining consent or warrant but shall advise the owner or responsible person of such entry as soon as practicable thereafter. This subsection is not subject to Chapter 1.12 MMC. In all other cases, Chapter 1.12 MMC shall control.

**Section 34. Repealer.** All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 35. Severability.** If any section, sentence, clause, or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**Section 36. Effective Date.** This ordinance shall take effect five (5) days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

**Section 37. Corrections.** Upon approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbers, section/subsection numbers, and any references thereto.

**PASSED** by the Council of the City of Morton, Washington, and **APPROVED** by the Mayor of the City of Morton at a regularly scheduled open public meeting thereof, this \_\_\_\_ day of March,

Attest:

\_\_\_\_\_  
Ricky Mead, Mayor

Approved as to form:

\_\_\_\_\_  
LuAnn Ward, City Clerk

\_\_\_\_\_  
James M.B. Buzzard, WSBA # 33555  
City Attorney

Approved Reading: \_\_\_\_\_ /  
Publication Date: \_\_\_\_\_ /  
Effective Date: \_\_\_\_\_ /