

ORDINANCE NO. 2760

AN ORDINANCE OF THE CITY OF MOSES LAKE REPEALING THE CURRENT CHAPTER 1.20 OF THE MOSES LAKE MUNICIPAL CODE TITLED "ADMINISTRATIVE ENFORCEMENT" AND ADOPTING A NEW CHAPTER 1.20 TITLED "CIVIL CODE ENFORCEMENT"

THE CITY COUNCIL OF THE CITY OF MOSES LAKE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Repeal and Amendment: Moses Lake Municipal Code Chapter 1.20 titled "Administrative Enforcement" is repealed in its entirety and a new Chapter 1.20 titled "Civil Code Enforcement" is adopted as follows:

- 1.20.010 Purpose: The purpose of this chapter is to provide for and promote the health, safety, and welfare of the general public; to identify processes and methods to encourage compliance with City code, ordinances, and regulations; and, to provide opportunity for a prompt hearing, decision, and appeal as to alleged violations of the land use code and other ordinances and regulations described in this chapter.
- 1.20.020 Definitions: Except where specifically defined in this section, all words used in this chapter shall carry their customary meanings. The word "shall" is always mandatory, and the word "may" denotes a use of discretion in making a decision. The following words and phrases used in this chapter shall have the following meanings:
- A. "Abate" means to repair, replace, remove, destroy, demolish, board-up, or otherwise remedy a condition which constitutes a civil violation by such means, in such a manner, and to such extent as the City Building Official, City Manager, or his/her designee determines is necessary in the interest of the general health, safety, and welfare of the community.
  - B. "Code Enforcement Officer" means the City Code Enforcement Officer, the Community Development Director, the City Building Official, and all other City officials designated by ordinance or by the City Manager for purposes of enforcing the regulations subject to the provisions of this chapter.
  - C. "Emergency" means a situation or civil violation which, in the opinion of the City Building Official, City Manager, or his or her designee, requires immediate action to prevent or eliminate an imminent threat to the public health, safety, or welfare of persons or property.
  - D. "Hearing Examiner" means the Moses Lake Hearing Examiner and the office thereof established pursuant to the Moses Lake Municipal Code.
  - E. "Omission" means a failure to act.
  - F. "Person" means and includes individuals, firms, partnerships, corporations, and all associations of natural persons, whether acting by themselves or by an agent or employee.
  - G. "Person responsible for violation" means either the person who caused the violation and/or the owner, lessor, tenant, or other person entitled to control, use, and/or occupy property where a civil code violation occurs.
  - H. "Nuisance" is an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
    - 1. Unreasonably injures or endangers the comfort, repose, health or safety of others; or
    - 2. Offends public decency; or
    - 3. Is offensive to the sense of reasonable persons; or
    - 4. In any way renders other persons insecure in life or use of property.

- I. "Regulation" means and includes all of the code provisions, ordinances, standards, regulations, procedures, terms and/or conditions specified under MLMC 1.20.040.
- J. "Violation" means:
  - 1. An act or omission contrary to any City regulation that promotes or protects the public health, safety, or welfare or the use and development of land or water, whether or not the regulation is codified; and/or
  - 2. An act or omission contrary to the conditions of any permit, notice and order, or stop work or other order issued pursuant to any such regulation.

1.20.030 Declaration of Public Nuisance: All civil code violations are determined to be detrimental to the public health, safety, and environment, and are declared to be public nuisances. All conditions determined to be civil code violations shall be subject to and enforced pursuant to the provisions of this chapter, except where specifically excluded by law or regulation. Any person who willfully or knowingly causes, aids or abets a civil code violation pursuant to this title by any act of commission or omission shall be deemed to have committed a civil violation subject to a C-7 penalty.

1.20.040 Applicability: This chapter may be applied for the purposes of enforcing the following regulations

- A. MLMC Title 3, Revenue and Finance;
- B. MLMC Title 5, Business Licenses and Regulations;
- C. MLMC Title 6, Animals;
- D. MLMC Title 8, Health and Safety;
- E. MLMC Title 9, Public Peace, Morals and Welfare
- F. MLMC Title 10, Streets, Sidewalks and Public Places;
- G. MLMC Title 13, Water, Sewers and Public Utilities;
- H. MLMC Title 14, Environmental Regulations;
- I. MLMC Title 16, Buildings and Construction;
- J. MLMC Title 17 , Subdivisions;
- K. MLMC Title 18, Zoning; and
- L. Such other code provisions, ordinances, resolutions, or public rules that promote or protect the public health, safety, or welfare, or the use and development of land and water.

1.20.050 Voluntary Correction Agreement:

- A. Content. When the Code Enforcement Officer has determined that a violation has occurred or is occurring, he or she may enter into a voluntary correction agreement with the person responsible for the violation. The voluntary correction agreement is a written contract prepared by the City and the person responsible for the violation, under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:
  - 1. The name and address of the person responsible for the violation;
  - 2. The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;

3. A description of the violation(s) and a reference to the regulation(s) which has been violated;
  4. The necessary corrective action to be taken, and the date by which the correction must be completed which shall be the shortest reasonable time period for compliance, as determined by the City;
  5. 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;
  6. The amount of the civil penalty that will be imposed pursuant to this section if the voluntary compliance agreement is not satisfied; and
  7. An agreement by the person responsible for the violation that if the City determines that the terms of the voluntary correction agreement are not met, the City may impose any remedy authorized by this chapter, including:
    - a. Assessment of civil penalties identified in the voluntary correction agreement;
    - b. Abatement of the violation;
    - c. Assessment of all costs and expenses incurred by the City to pursue code enforcement and to abate the violation, including legal and incidental expenses; and
    - d. Suspension, revocation, or limitation of a developmental permit.
  8. A statement that the person responsible for the violation waives the right to a hearing.
- B. Right to a Hearing Waived. In consideration of the City's agreement to enter into a voluntary correction agreement, the person responsible for the violation shall have no right to an administrative or judicial hearing, under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action.
- C. Extension and Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the City if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances delay correction under the original conditions and the responsible person provides the request in writing clearly establishing the need for such an extension.
- D. Monetary Penalty. If the terms of the voluntary correction agreement are not met, the person responsible for the violation may be assessed a monetary penalty not to exceed one thousand dollars (\$1,000) for each violation per day or portion thereof. Civil penalties, in whole or in part, may be waived by the City Manager or his/her designee if the code violations which formed the basis for the civil violation have been corrected, and the City Manager or his/her designee finds that compelling reasons justify waiver of all or part of the outstanding civil penalties.

1.20.060 Notice of civil infraction:

- A. Issuance. When the Code Enforcement Officer has determined that a violation has occurred or is occurring, he or she may issue a notice of infraction to the person responsible for the violation.
- B. Content. The notice of infraction shall include the following information:
  1. A statement describing the specific civil infraction for which the notice was issued, including the date and location, as well as the accompanying statutory citation, ordinance number, or regulation;

2. A statement that the notice of civil infraction represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;
  3. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
  4. A statement of the monetary penalty established for the civil infraction;
  5. A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;
  6. A statement that at any hearing to contest the determination, the City has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses including the Code Enforcement Officer who issued the notice;
  7. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the civil infraction and may not subpoena witnesses;
  8. A statement that the person named in the notice must respond as provided in this chapter within fifteen (15) days of issuance; and
  9. A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty.
- C. Identification and Detention of Person Receiving Notice. A person who receives a notice of civil infraction under this chapter is required to identify himself or herself to the Code Enforcement Officer by giving his or her true name, address, and date of birth. Upon request of the Officer, the person shall produce reasonable identification, including a driver's license or State identification card. The Code Enforcement Officer may cause to be detained any person who is unable or unwilling to reasonably identify himself or herself for purposes of issuing a civil infraction, for a time not longer than is reasonably necessary to identify the person.
- D. Service. The Code Enforcement Officer shall serve the notice of civil infraction upon the person responsible for the violation, either personally or by mailing a copy of the notice of civil infraction by certified or registered mail, return receipt requested, to such person at his last known address. If the person responsible for the violation cannot be personally served within Grant County and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice of civil infraction conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person completing the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail.
- E. Filing. A notice of civil infraction shall be filed with a court having jurisdiction within 5 days of issuance, excluding Saturdays, Sundays, and holidays.
- F. Determination Final Unless Contested. A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.
- G. Further Action Not Limited. Issuance or disposition of a notice of infraction shall not limit or preclude any action or proceeding pursuant to this chapter.

1.20.070 Notice of Civil Infraction - Response:

- A. Response. A person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen (15) days of the date of the notice. If the response is mailed, it must be postmarked not later than midnight of the day the response is due.
- B. Uncontested Determination. If the person determined to have committed the civil infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court. A check or money order in the amount of the penalty prescribed for the civil infraction must be submitted with the response. The clerk of the court may accept cash in payment for a civil infraction. When a response that does not contest the determination is received, an appropriate order is entered into the court's records.
- C. Contested Determination. If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it to the court, either by mail or in person. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than fourteen (14) days nor more than ninety (90) days from the date of notice of the hearing, except by agreement.
- D. Failure to Respond or Appear. The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction if a person issued a notice of infraction fails to respond or appear as provided in this section.

1.20.080 Infraction - Hearings:

- A. Rules of Procedure. Procedures for the conduct of all hearings provided in this chapter are those established by the Washington State Supreme Court in the IRLJ.
- B. Counsel. A person subject to proceedings under this chapter may be represented by counsel. The attorney representing the City may appear in any proceedings under this chapter, but need not appear, notwithstanding a statute or rule of court to the contrary.
- C. Contested Determination.
  - 1. A hearing held to contest the determination that an infraction has been committed shall be without a jury.
  - 2. The court may consider the notice of infraction and any sworn statements submitted by the authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who has issued and served the notice, and has the right to present evidence and examine witnesses present in court.
  - 3. The burden of proof is on the City to establish the commission of the infraction by a preponderance of evidence.
  - 4. After consideration of the evidence and argument, the court shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. If it has been established that a civil infraction has been committed, an appropriate order shall be entered in the court's records.
  - 5. An appeal from the court's determination or order shall be to the superior court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the superior court is subject only to discretionary review pursuant to the Rules of Appellate Procedure.

1.20.090 Infraction - Penalties:

- A. Monetary Penalties Assessed. Unless otherwise specifically provided in connection with particular sections, chapters, or titles of the City code, violations of the City code shall be subject to a penalty of up to five thousand dollars (\$5,000.00) per offense. Each and every calendar day during any portion of which any violation of this chapter is committed, continued or permitted by any such person shall constitute a separate offense.
- B. Monetary Penalties Payable Immediately. A monetary penalty imposed by the court under this chapter is immediately payable. If the penalty is not paid, the City may proceed to collect the penalty in the same manner as other civil judgments and may notify the City Attorney of the failure to pay.
- C. Continued Duty to Correct. Payment of a monetary penalty pursuant to a notice of infraction does not relieve the person to whom the notice was issued of the duty to correct the violation.
- D. Restitution. The court may also order a person found to have committed a civil infraction to make restitution.

1.20.100 Infraction - Order, Modification, Fees:

- A. An order entered after the receipt of a response that does not contest the determination, or after it has been established at a hearing that the civil infraction was committed is civil in nature.
- B. The court may not waive, reduce, or suspend the monetary penalty prescribed for the civil infraction.
- C. Each party to a civil infraction case is responsible for costs incurred by that party.

1.20.110 Administrative Notice and Order to Correct Civil Violation:

- A. Issuance. When the Code Enforcement Officer determines that a violation has occurred or is occurring, he or she may issue an administrative notice and order to correct civil violation ("notice and order") to the person responsible for the violation.
- B. Content. The notice and order shall include the following:
  - 1. The name and address of the person responsible for the violation;
  - 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 brief description of the violation(s), including a citation of the applicable City regulation(s);
  - 4. The name of the citing officer;
  - 5. The required corrective action and a date by which the correction must be completed;
  - 6. A statement that the person to whom the notice and order is directed may appeal the notice and order pursuant to MLMC 1.20.120 ;
  - 7. A statement that if the violation is not corrected and the notice and order is not appealed, the determination is final and a monetary penalty shall be assessed in an amount per day for each violation for each day the violation continues following the date set for correction;
  - 8. A statement advising that, if any of the work is not commenced or completed within the time specified in the notice and order, the City may proceed to abate the violation, cause

work to be done, and assess the costs and expenses of abatement incurred by the City against the person responsible for the violation, and that the City may take any other legal action.

- C. Service. The Code Enforcement Officer shall serve the notice and order upon the person responsible for the violation, either personally or by mailing a copy by certified or registered mail, return receipt requested, to such person at his or her last known address. If the person responsible for the violation cannot be personally served within Grant County and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice and order conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail.
- D. Optional Recording Procedure. The City may, at its discretion, record a notice and order to correct civil violation against the subject property.
- E. Extension and Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the City if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances delay correction under the original conditions and the responsible person provides the request in writing clearly establishing the need for such an extension.
- F. Monetary Penalty. The assessment of a two hundred fifty dollars (\$250) per day monetary penalty shall commence with issuance of the notice and order. Civil penalties, in whole or in part, may be waived by the City Manager or his/her designee if the code violations which formed the basis for the civil violation have been corrected, and the City Manager or his/her designee finds that compelling reasons justify waiver of all or part of the outstanding civil penalties.
- G. Continued Duty to Correct. Payment of a monetary penalty pursuant to this section does not relieve the person to whom the notice and order was issued of the duty to correct the violation.
- H. Declaration of Compliance. When the violation has been corrected and the penalty paid, the Code Enforcement Officer shall issue a declaration of compliance which shall so state, and shall also indicate the date upon which the violation was fully corrected, beyond which no further penalty shall accrue. If the City previously recorded the notice and order against the subject property, then it shall also record the declaration of compliance.

1.20.120 Administrative Notice and Order - Appeal:

- A. Optional informal appeal. The property owner or violator may request an initial appeal hearing before the Community Development Director by submitting to him or her a written request within ten (10) calendar days of receipt of the Notice of Violation and Order to Correct or Cease Activity. Filing of a timely appeal shall operate to temporarily stay the enforcement action pending resolution of the appeal. The written appeal notice must contain at a minimum the following information:
  - 1. A brief statement of what is being appealed;
  - 2. A statement of the relief sought and the reasons why the city official's determination should be reversed, modified or set aside;
  - 3. The property owner's or violator's current address;
  - 4. Identification of any witness testimony, photographs, or documentary evidence to be presented; and
  - 5. A statement or verification under penalty of perjury, made by the appellant as to the truth of the matters stated in the appeal, pursuant to RCW 9A.72.085.

- B. The Community Development Director, or his designee if he is unavailable, shall conduct the initial appeal hearing within seven (7) calendar days after receipt of the written notice requesting the initial appeal hearing. The Community Development Director or designee shall apply the evidentiary standard of beyond a preponderance of the evidence and shall issue a written determination affirming, modifying, or rescinding the city official's determination. A copy of his decision shall be provided to the property owner or violator requesting the initial appeal hearing by mailing to the address provided in subsection 1(c) above.
- C. Any Notice of Violation and Order to Correct or Cease Activity issued by the city official and affirmed or modified by the Community Development Director or designee shall be appealable to the Hearing Examiner by filing a written notice of appeal with the City Clerk within fourteen (14) calendar days after the date of mailing of the Community Development Director's or designee's written decision.
- D. Appeal to Hearing Examiner.. A person to whom a notice and order is issued pursuant to this chapter who elects not to, or who fails to use the optional informal appeal process above may appeal directly to the Hearing Examiner by filing a written notice of appeal with the City Clerk within fourteen (14) calendar days from the date of service of the notice and order. The appeal must be accompanied by a filing fee in the amount established by the City's fee resolution, which is refundable if the appellant prevails on the appeal.
- E. Effect of Appeal. The timely filing of an appeal pursuant to this section shall stay the requirement for action specified in the notice and order that is the subject of the appeal. The monetary penalty for a continuing violation does not continue to accrue during the pendency of the appeal; however, the Hearing Examiner may impose a daily monetary penalty from the date of service of the notice and order if he or she finds that the appeal is frivolous or intended solely to delay compliance.
- F. Effect of Failure to Appeal. The violation shall be deemed committed, the notice and order shall become the final administrative order, and the monetary penalties assessed shall be immediately due and subject to collection if (a) no appeal is timely filed within the time limits set forth above after the notice and order was issued, or (b) an appeal was timely filed, but the appellant or his or her representative failed to appear at the hearing.

1.20.130 Administrative Notice and Order - Appeal - Hearing.

- A. Date of Hearing. Within ten (10) days of the Clerk's receipt of the appeal, the Hearing Examiner shall set a public hearing for a date within forty-five (45) days of the Clerk's receipt of the appeal, unless a longer period is agreed to between the parties.
- B. Notice of Hearing. The Clerk shall cause a notice of the appeal hearing to be posted on the property that is the subject of the notice and order, and mailed to the appellant and the complainant, if not anonymous, at least ten (10) calendar days before the hearing. The notice shall contain the following:
  - 1. The file number and a brief description of the matter being appealed;
  - 2. A statement of the scope of the appeal, including a summary of the errors alleged and the findings and/or legal conclusions disputed in the appeal;
  - 3. The date, time and place of the public hearing on the appeal;
  - 4. A statement of who may participate in the appeal; and
  - 5. A statement of how to participate in the appeal.
- C. Conduct of Hearing. The Hearing Examiner shall conduct the hearing on the appeal pursuant to Chapter 18.80 MLMC and the rules of procedure of the Hearing Examiner.

1.20.140 Administrative Notice and Order - Appeal - Decision.

- A. The Hearing Examiner shall determine whether the City has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable and shall affirm, vacate, or modify the City's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions.
- B. The Hearing Examiner shall issue an order to the person responsible for the violation which contains the following information:
  1. The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;
  2. The required corrective action;
  3. The date by which the correction must be completed;
  4. The monetary penalties assessed based on the provisions of this chapter;
  5. The date after which the City may proceed with abatement of the unlawful condition if the required correction is not completed.
- C. **Assessment of Monetary Penalty.** Monetary penalties assessed by the Hearing Examiner shall be in accordance with the monetary penalty schedule in MLMC 1.20.110(6).
- D. **Abatement.** Where action to abate the violation is required, the hearing examiner shall give substantial weight to the City's determination regarding the nature of any such action required, and whether such action has been satisfactorily performed.
- E. **Notice of Decision.** The hearing examiner shall mail a copy of the decision, including findings of fact, conclusions, and order, to the applicable department director within fourteen (14) working days of the hearing. The City shall forward a copy of the decision to the appellant no later than two (2) working days after its receipt of the decision.
- F. **Judicial Review.** Judicial review of a decision by the Hearing Examiner 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 twenty-one (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).
- G. **Effect of Decision.** If judicial review is not obtained, the decision of the Hearing Examiner shall constitute the final decision of the City, and the failure to comply with the decision of the Hearing Examiner shall constitute a civil violation punishable by a fine of not more than five thousand dollars (\$5,000). In addition to civil penalties pursuant to this subsection, the City may pursue collection and abatement as provided in this chapter.

1.20.150 Stop Work Orders: Whenever a continuing violation of this chapter will materially impair the Code Enforcement Officer's ability to secure compliance with this chapter, or when the continuing violation threatens the health or safety of the public, the Code Enforcement Officer may issue a stop work order specifying the violation and prohibiting any work or other activity at the site. Any violation of a stop work order is hereby declared to be a nuisance and the Code Enforcement Officer is authorized to enjoin or abate such nuisance by any legal or equitable means as may be available. The costs, specifically including reasonable attorney and expert witness fees, for the injunction or abatement shall be recovered by the City from the owner, tenant, occupant, manager, agent, or other responsible person in the manner provided by law.

1.20.160 Emergency Orders: Whenever any use or activity in violation of the Moses Lake Municipal Code immediately threatens the health and safety of the occupants of the premises or any member of the public, the Code Enforcement Officer may issue an emergency order directing that the use or

activity be discontinued and the condition causing the threat to the public health and safety be corrected. The emergency order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. Any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the City is authorized to enjoin or abate such nuisance by any legal or equitable means as may be available. The cost of such injunction or abatement, specifically including reasonable attorney and expert witness fees, shall be recovered from the owner, tenant, occupant, manager, agent, or other person responsible in the manner provided by law.

1.20.170 Abatement by the City:

A. The City may abate a condition which was caused by or continues to be a civil violation or civil infraction when:

1. The terms of the voluntary correction agreement pursuant to this chapter have not been met; or
2. An administrative notice and order has been issued, the period for filing an appeal with the Hearing Examiner has expired, and the required correction has not been completed; or
3. An administrative notice and order has been issued, a timely appeal was filed, the appellant failed to appear at the scheduled hearing or a hearing was held as provided in this chapter and the required correction has not been completed by the date specified by an order of the Hearing Examiner; or
4. The condition is subject to summary abatement as provided for in this chapter or other provisions of City or State law.

B. Summary Abatement. When a violation of a regulation causes a condition, the continued existence of which constitutes an immediate and emergent 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.

C. Authorized Action by the City. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition which is subject to abatement. The City may seek judicial process as it deems necessary to effect the removal or correction of such condition.

D. Recovery of Costs and Expenses. All costs incurred by the City in correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant, or other person entitled to use and/or have control of the property, and shall become due and payable to the City within 10 calendar days. Such costs may include, but are not limited to, the following expenses:

1. "Legal expenses" which shall include, but are not limited to:
  - a. Personnel costs, both direct and indirect, including attorney's fees and all costs incurred by the City Attorney's office or its designee to abate nuisances and code violations;
  - b. Actual and incidental expenses and costs incurred by the City in preparing notices, contracts, court pleadings, and all other necessary documents required to abate nuisances and code violations; and
  - c. All costs associated with retention and use of expert witnesses and consultants during the course of abatement.
2. "Abatement expenses" which shall include, but are not limited to:

- a. Costs incurred by the City for preparation of notices, contracts, and related documents necessary to abate nuisances and code violations;
- b. All costs associated with inspection of the property and monitoring of said property consistent with correction orders issued by the City's Hearing Examiner or a court of competent jurisdiction;
- c. All costs incurred by the City for hauling, storage, disposal, or removal of vegetation, trash, debris, dangerous structures or structures unfit for human habitation, potential vermin habitat, potential fire hazards, junk vehicles, obstructions to public rights-of-way, and setback obstructions; and
- d. All costs incurred by law enforcement or related enforcement agencies necessary to assist the City during abatement of nuisances or code violations.

1.20.180 Additional Code Enforcement Procedures: The provisions of this chapter are not exclusive, and may be used in addition to other code enforcement provisions authorized by the Moses Lake Municipal Code or other applicable law or regulation.

1.20.190 Interference: Any person who knowingly obstructs, impedes, or interferes with the City or its agents, or with a person responsible for a violation, any of whom are engaged in performing duties imposed by this chapter, shall be guilty of a civil violation punishable by a fine of up to five thousand dollars (\$5,000).

1.20.200 Collection of Monetary Penalties: The monetary penalty constitutes a personal obligation of the person to whom a notice of civil infraction or notice and order is directed. Any monetary penalty assessed must be paid to the City within ten (10) 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 shall further constitute a lien against the affected real property. The City attorney is authorized to take all actions available to collect the monetary penalty.

1.20.210 Lien - Authorized:

- A. The City of Moses Lake 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. 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.
- B. The City shall cause a claim for lien to be filed for record within ninety (90) days from the later of the date that the monetary penalty is due, or the date the work is completed or the violation abated.
- C. 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.
- D. Any such claim of lien shall be verified by the City, and may be amended from time to time to reflect changed conditions.

1.20.220 Right of Entry: The Code Enforcement Officer is authorized to enter upon property or premises at any reasonable time to determine whether a civil violation has occurred or is occurring, or to enforce any provision of the Moses Lake Municipal Code or any City regulation, violation of which is a civil violation under this chapter. The Code Enforcement Officer may make examinations, surveys, and studies as may be necessary in the performance of his or her duties. These may include the taking of photographs, digital images, videotapes, video images, audio recordings, samples, or other physical evidence. If the premises are occupied, the Code Enforcement Officer shall first present credentials and request entry. If an owner, occupant, or agent refuses entry, the City may seek an administrative or criminal search warrant.

- 1.20.230 Conflicts: In the event of a conflict between this chapter and any other provision of the Moses Lake Municipal Code or City ordinance providing for a civil penalty, the more specific provision shall apply.
- 1.20.240 Adoption of Certain Other Laws: To the extent that any provision of the Grant County Code, or any other law, rule or regulation referenced in the enforcement code, is necessary or convenient to establish the validity, enforceability or interpretation of the enforcement code, then such provision of the Grant County Code, or other law, rule or regulation, is hereby adopted by reference.

Section 2. This ordinance shall take effect and be in force five (5) days after its passage and publication of its summary as provided by law.

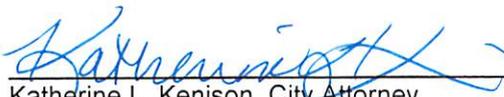
Adopted by the City Council and signed by its Mayor on April 14, 2015.

  
\_\_\_\_\_  
Dick Deane, Mayor

ATTEST:

  
\_\_\_\_\_  
W. Robert Taylor, Finance Director

APPROVED AS TO FORM

  
\_\_\_\_\_  
Katherine L. Kenison, City Attorney