

Road Supervisor
~~Fire Chief~~
Weed Inspector

**Building Code Official employed by or contracted to perform services for
Malheur County**

Designated person authorized by resolution of the County Court.

FORFEITURE; The only penalty to be imposed for an infraction is a monetary FORFEITURE penalty called a forfeiture. ~~The County Court shall, however,~~
SCHEDULE: ~~possess the additional enforcement powers set forth in Section 1-9A-5 of this Article.~~ The appropriate forfeiture to be assessed for a specific infraction will be determined from the forfeiture schedule in Section 1-9A-3. The procedure described by this Article shall be the exclusive procedure for imposing a forfeiture; however, this Section shall not be read to prohibit in any way any other alternative remedy set out in ordinances or statutes covered by this infraction procedure which is intended to abate or alleviate ordinance and statute violations, nor shall the county be prohibited from recovering, in a manner prescribed by law, any expense incurred by it in abating or removing ordinance or statute violations pursuant to said ordinances or statutes, or limit the inherent power of the court to impose penalties for contempt of court.

JURISDICTION OF THE COURT: The Malheur County ~~justice courts have~~
Justice Court has jurisdiction over all county infraction violations.

RESPONSIBLE PERSON: Any legal owner or person (including individuals, corporations, associations, firms, partnerships, government, trust, estate, joint stock companies or other legal entity), having charge, care or control of property or premises such as a contract purchaser, lessee, occupant, agent or tenant

~~VENUE: Actions shall be commenced and heard in the justice court for the district where the conduct that constitutes the infraction incurred.~~

- IV. Malheur County Code 1-9A-3 C shall be amended, in part, as follows. Strikethrough language is deleted from the code. Bold and underline language is added to the code.

Ordinance

Infraction Class

<u>Violation Stop Work or Stop Use Tag Posting</u> <u>(Malheur County code 1-9A-5D)</u>		<u>A</u>
Malheur County solid waste ordinance (Malheur County code title 2, chapter 2)		B
<u>Malheur County Subsurface Sewage Disposal</u> <u>(Malheur County code, title 2, chapter 3A)</u>		<u>A</u>
Malheur County outdoor mass gathering ordinance (Malheur County code title 3, chapter 2)	B	<u>A</u>
Malheur County dog control ordinance (Malheur County code title 3, chapter 6)		
<u>dogs running at large</u>		<u>D</u>
<u>keeping of restricted breeds of dogs</u>		<u>B</u>
Malheur public nuisance ordinance (Malheur County code title 3, chapter 4)		
Subsection 3-4-4B, attractive nuisance		A
Subsection 3-4-4C <u>B</u> , stagnant water		B
Subsection 3-4-4D <u>C</u> , certain trees and plants		D
Subsection 3-4-4E <u>D</u> , abandoned vehicles		B <u>A</u>
Subsection 3-4-4F <u>E</u> , unauthorized sewage disposal systems		A
Subsection 3-4-4G <u>F</u> , abandoned buildings		A
Subsection 3-4-4H <u>G</u> , noxious weeds		<u>B</u> <u>A with a</u> <u>penalty of \$750</u>
Subsection 3-4-4I <u>H</u> , burning ordinance		B
Subsection 3-4-4J <u>I</u> , road hazard ordinance		A
Subsection 3-4-4K <u>J</u> , all other violations		A
Subsection 3-4-4L, ambulance service		A
Subsection 3-4-4M <u>K</u> , wireless telecommunication facility		B
<u>Subsection 3-4-4 L, property on “unfit for use list”</u>		<u>A</u>
<u>Subsection 3-4-4-M, transporting solid waste without cover</u>		<u>A</u>
<u>Subsection 3-4-4 N, unauthorized salvaging</u>		<u>B</u>
<u>Subsection 3-4-4 O, offensive littering</u>		<u>A</u>
<u>Subsection 3-4-4 P, infested or providing harborage rodents</u>		<u>A</u>

Malheur County noxious weed control ordinance (Malheur County code title 3, chapter 3)	B <u>A with penalty of \$750</u>
Malheur County ambulance service ordinance (Malheur County code title 3, chapter 7)	A
Malheur County food handlers' certification ordinance (Malheur County code title 3, chapter 8)	B
Malheur County emergency management ordinance (Malheur County code title 3, chapter 10)	A
<u>Malheur County bovine trichomoniasis testing ordinance (Malheur County code title 3, chapter 11)</u>	<u>B</u>

V. Section 1-9A-4-1 A. entitled "Notice of Infraction" shall be amended in its entirety to read:

A. Notice of Infraction. Responsible persons for infractions shall be notified in writing of the infraction and be given a reasonable time in which to cure the infraction. The enforcement officer shall take into account any attendant health risks, weather conditions and other appropriate factors in determining a reasonable period of time to cure. Notice of Infraction can be given either through personal delivery or both regular first class mail and certified mail return receipt requested.

VI. Section 1-9A-4-1 B. entitled "Notice of Public Nuisance" shall be deleted in its entirety so that it may be codified in substantially the same form in the public nuisance ordinance provisions set forth below.

VII. Section 1-9A-4-1 C entitled "Prosecution of Infraction" shall be renumbered and amended in its entirety to read:

B. Prosecution of Infraction: Upon failure of the responsible person to cure, or make reasonable efforts to cure, the infraction within the prescribed time set out in the Notice of Infraction an Infraction Citation shall be issued by the enforcement officer.

VIII. Section 1-9A-4-4 of the Malheur County Code shall be amended in its entirety to read:

1-9A-4-4: INFRACTION CITATION

- A. A citation signed by the enforcement officer shall be filed with the Malheur County Justice Court charging the responsible person with a civil infraction and setting a date for said person to appear before the court to answer the citation.
- B. The form of the infraction citation shall be prescribed by the County Judge or Justice Court Judge and shall contain, at minimum, the following parts: a summons and a complaint. The enforcement officer's records shall be copied and made available to the person cited, if requested. The following information shall be entered on the citation:
 - 1. The name of the responsible person(s) allegedly to have committed the infraction.
 - 2. The infraction or code provision with which the person is to have allegedly violated. A brief description of the alleged infraction should be included so that it can be readily understood by a person making a reasonable effort.
 - 3. The date, time and place the infraction allegedly occurred.
 - 4. The forfeiture for the alleged infraction.
 - 5. The time and place at which the person is to appear in justice court.
 - 6. A statement by the enforcement officer to the effect that he/she has reasonable grounds to believe, and does believe, that the person cited committed the infraction.
- C. Any error in the citation may be corrected at a hearing or prior to the hearing upon notice to the person cited. The citation shall be set aside by the Justice Court Judge due to error only upon a request by the person cited made before the close of the hearing and upon a determination that the error is prejudicial to the person's defense. Failure to make a request of the judge to set aside the citation before the conclusion of the hearing shall constitute a waiver, and will be an absolute bar to raising this issue at a later date.
- D. The citation shall be made by personal service, substituted service, office service or by mail. Service by mail is to be by both first class mail and by certified, registered or express mail with return receipt requested. There shall be a rebuttable presumption that any citation sent by mail is served on the third business day following deposit with the U.S. Postal Service.

