

First Reading: 07/19/2016

Second Reading:08/16/2016

**ORDINANCE 960**

**AN ORDINANCE OF THE CITY OF BENTON CITY,  
WASHINGTON, CREATING A NEW CHAPTER 15.24  
"UNSAFE AND UNFIT BUILDINGS, STRUCTURES, AND  
PREMISES"**

**WHEREAS**, there are at times found to be unkept, deteriorated and/or abandoned dwellings, structures, and premises with the city limits of the City of Benton City that are found to be unfit for human habitation and other uses, causing urgent concerns for the detrimental effects such properties may have on public health, safety and welfare; and

**WHEREAS**, these properties often constitute an immediate and emergent threat to public health and safety; and

**WHEREAS**, RCW 35.80 provides for the abatement of dwellings which are unfit for human habitation, and building structures and premises or portions thereof which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, uncleanliness, inadequate light, or sanitary facilities, or other conditions which are a hazard to the health and welfare of the residents of the City; and

**WHEREAS**, RCW 35.80 authorizes the City to adopt ordinances and procedures relating to the abatement of property unfit for human habitation and other uses; and

**WHEREAS**, it is in the best interest of the City of Benton City to adopt the processes and acquire the powers authorized by Chapter 35.80 RCW to address the conditions which may render buildings and premises unfit for human habitation and other uses; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DO  
ORDAIN AS FOLLOWS:**

**Section 1.** That a new Chapter 15.24 entitled "Unsafe and Unfit Buildings, Structures, and Premises" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

## Chapter 15.24

### UNSAFE AND UNFIT BUILDINGS, STRUCTURES, AND PREMISES

#### Sections:

- 15.24.010 Findings.
- 15.24.020 Nuisance Declared.
- 15.24.030 Definitions.
- 15.24.040 Enforcement Authority and Powers.
- 15.24.050 Procedure to Abate Unsafe or Unfit Structures or Premises.
- 15.24.060 Abatement Costs.
- 15.24.070 Right to Appeal.
- 15.24.080 Appeals.
- 15.24.090 Service Completed When.
- 15.24.100 Supplemental Chapter.
- 15.24.110 Nuisances: Powers Reserved.
- 15.24.120 Additional Violations and Penalties.
- 15.24.130 Emergencies.
- 15.24.140 Discrimination Prohibited.
- 15.24.150 Warrants for Entry.
- 15.24.160 Adoption of RCW in its Entirety.

**15.24.010 Findings.** It is found that there exist in the City of Benton City, dwellings, and other buildings, structures, and premises which are unfit for human habitation and which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of the City. It is the intent of this chapter to clarify and strengthen the procedures for abating such nuisances, particularly unsafe or unfit dwellings, buildings, structures, or premises, modeled after the provisions of Chapter 35.80 RCW.

**15.24.020 Nuisance Declared.** All buildings or structures in the City which by reason of decay, dilapidation, or damage by fire, the elements, or any other cause, are now or hereafter shall become, in the judgment of the Building Official, dangerous to the lives and safety of persons or property or unsafe for the purpose or purposes for which they are being uses, unsafe or unfit structures and premises as defined in this chapter are declared to be public nuisances.

**15.24.030** **Definitions.** For purposes of this chapter, the following definitions shall apply:

- A. "Abate" means to repair, replace, remove, destroy, vacate, close, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as is required or permitted by this chapter, as determined by the Code Enforcement Officer or other authorized official.
- B. "Building Code" means and includes the Building Code, its components, and related codes adopted by the City of Benton City in Title 15 of the Benton City Municipal Code.
- C. "Building Official" means the designated appointee as defined in BCMC 15.04.020.
- C. "City" means the City of Benton City.
- D. "Code Enforcement Officer" means the Code Enforcement Officer of the City of Benton City or his or her designee.
- E. "Premises" means and includes any structure, lot, parcel, real estate, or land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips, and any lake, river, stream, drainage way, or wetland, within the territorial limits of the City.
- F. "Property," unless otherwise defined or modified, includes premises and/or structures, as required by its context, and may include personal property if required by its context.
- G. "Structure" means and includes any dwelling, house, shop, stable, building, or other structure.
- H. "Unsafe or unfit" includes, without limitation, any of the conditions described in this subsection applicable to any dwelling, building, structure, or premises which renders it unfit for human habitation or other use. The term "unsafe or unfit" requires the enumerated conditions to be of such a degree as to be dangerous or injurious to the health and safety of the occupants of such dwelling, structure, building, or premises, or the occupants of neighboring dwellings, buildings, structures, or premises or other residents of the City:
  - 1. Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member, or portion thereof, due to dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose, or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
11. Whenever the building or structure, exclusive of the foundations, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
12. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons; or as to (iii) enable person to resort thereto for the purpose of committing unlawful or immoral acts.
13. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings.
14. Whenever any building or structure, which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than 50% or in any supporting part, member, or portion less than 66% of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
16. Whenever a building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the Fire Chief to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
19. Whenever any building, structure, dwelling, or premises, or any portion thereof, is vacated, is not secured against entry, and is subject to acts of unlawful burning.

The terms "owner" and "person" shall have the same meanings as in the Building Code as adopted by the City of Benton City.

**15.24.040 Enforcement Authority and Powers.**

- A. The responsibility for administration and enforcement of this chapter, unless otherwise provided, is vested in the Code Enforcement Officer, Building Official, and Hearing Examiner, as defined in this chapter.
- B. The Code Enforcement Officer, Building Official, and Hearing Examiner may exercise such lawful powers as may be necessary or convenient to effectuate the purposes and provisions of this chapter. These powers shall include the following in addition to others herein granted:
  1. To determine, pursuant to standards prescribed by the Building Code and upon assessment by the Building Official, which dwellings within the City are unfit for human habitation;
  2. To determine, pursuant to standards prescribed by the Building Code and upon assessment by the Building Official, which buildings, structures, or premises are unfit for other use;
  3. To administer oaths and affirmations, examine witnesses and receive evidence;
  4. To investigate the dwelling or other property conditions in the City and to enter upon premises to make examinations when there are reasonable grounds for believing they are unfit for human habitation, or for other use.
  5. To enter upon private and public property for such purposes and other purposes of this chapter subject to the provisions of Benton

City Municipal Code Section 15.24.150 and in such a manner as to cause the least possible inconvenience to the person(s) in possession, as determined by the Code Enforcement Officer, Building Official, and/or Hearing Examiner.

**15.24.050 Procedure to Abate Unsafe or Unfit Structures or Premises.**

A. Complaint. If, after a preliminary investigation, the Building Official finds that any structure or premises is unsafe or unfit, the Code Enforcement Officer or Building Official shall cause a written complaint to be served either personally or by certified mail with return receipt requested, upon all persons having any interest therein, as shown upon the records of the Benton County Auditor's office, and shall post the complaint in a conspicuous place on such property. The complaint shall state in what respects such structure or premises is unsafe or unfit as defined in this chapter and may include notice of additional penalties or remedies available to the City under other provisions of the Benton City Municipal Code. If the whereabouts of any of such persons is unknown and cannot be ascertained in the exercise of reasonable diligence, and the Code Enforcement Officer or Building Official makes and files with the City Clerk an affidavit to that effect, then the serving of the complaint upon such persons may be made either by personal service or by mailing a copy by certified mail, postage prepaid, return receipt requested, to each such person at the address of the premises involved in the proceedings, and mailing a copy of the complaint by first class mail to any address of each such person in the records of the County Assessor or County Auditor of Benton County. The complaint shall contain a notice that a hearing will be held before the Building Official, at a place specified in the complaint, not less than ten days nor more than thirty days after the serving of said complaint, and that all parties in interest have the right to file an answer to the complaint, to appear in person, or otherwise, and to give testimony at the time and place in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling hearings before the Building Official. A copy of the complaint shall be filed also with the Benton County Auditor, and the filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. The complaint shall be substantially in the following form:

BEFORE THE CITY OF BENTON CITY  
BUILDING OFFICIAL

|                        |   |           |
|------------------------|---|-----------|
| In Re: The premises at | ) | No.       |
| _____                  | ) | COMPLAINT |
| (address)              | ) |           |
| _____                  | ) |           |

TO: The Owners and Occupiers of the premises located at :

\_\_\_\_\_  
(list names, address and whether owner of occupier)

THIS IS TO NOTIFY YOU that the premises or structure which you own or occupy is unsafe or unfit for the following reasons:

(list facts and applicable Municipal Code Section)

A hearing shall be held at (state date, time, and place of hearing) to determine whether there is sufficient legal cause to order you to take the following action: (list actions requested: e.g., repair, secure against entry, demolition, etc.). You may file a written answer to this Complaint by mailing or delivering it to the address listed below. You may also appear at the hearing with or without an attorney. Failure to answer and/or come to the hearing may result in you being required to take the action described in the previous paragraph or, failing that, paying for the City of Benton City to take that action.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_, Building Official

City of Benton City  
PO Box 70  
Benton City, WA 99320  
(509) 588-3322  
(509) 588-3323 - Facsimile

Personal service upon an owner or other party in interest under this chapter may be made by delivering a copy of the complaint or order to that person or by leaving the copy with a person of suitable age and discretion at the place of residence of the owner or other party in interest. The Code Enforcement Officer shall make and retain written proof of service of the complaint

- B. Determination - Reference to Building Code. As provided in RCW 35.80.030, the Building Official may determine that a structure or premises is unsafe or unfit if he or she finds that one or more defects or conditions exist that are described in Benton City Municipal Code Section 15.24.030(H), according to minimum standards that are prescribed by the currently adopted version of the Building Code:



1. For determining the fitness or safety of a dwelling for human habitation, or any building, structure, or premises for other use;
2. For the use and occupancy of dwellings throughout the City; or
3. For the use and occupancy of any building, structure, or premises used for any other purpose.

C. General Standards. In general, the determination of whether a structure or premises should be repaired or demolished, shall be based on the following standards:

1. The degree of structural deterioration of the structure or premises, or
2. The relationship that the estimated cost of repair bears to the value of the structure as determined by a qualified real estate appraiser engaged by the City for that purpose.

An undertaking entered into, at, or prior to the hearing, by a party in interest creates a presumption that the structure or premises can be reasonably repaired. The failure to accomplish such an undertaking is grounds for the Building Official to order demolition.

D. Specific Standards for Determining Safety or Fitness-Demolition or Other Remedies.

1. In reaching a judgment that a structure or premises is unsafe or unfit for human habitation, the Building Official shall consider: (a) dilapidation, (b) disrepair, (c) structural defects, (d) defects increasing the hazards of fire, accidents, or other calamities, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury, (e) inadequate ventilation, (f) uncleanliness, (g) inadequate light, (h) inadequate sanitary facilities, (i) inadequate drainage, (j) substandard conditions.
2. If these or other conditions are found to exist to an extent dangerous or injurious to the health or safety of the structure's occupants, or the occupants of neighboring structures or of other residents of the City of Benton City, and if (a) structural deterioration is of such degree that (i) vertical members list, lean, or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base, or (ii) thirty-three percent (33%) of the supporting members show damage or deterioration, or (b) the estimated cost of restoration exceeds sixty percent (60%) of the value of the structure, or (c) the structure has

been damaged by fire or other calamity, the estimated cost of restoration exceeds thirty percent (30%) of the value of the structure and it has remained vacant for six months or more, the Building Official shall order the structure or premises demolished and the land suitably filled and cleared, or shall order the structure or premises demolished and the land suitably filled and cleared, or shall order the property immediately vacated and secured as completely as possible pending demolition. "Value" as used in this paragraph, shall be determined by reference to a current edition of "Building Valuation Data" published by the International Code Council or, if not published, as determined by the Building Official.

- E. Alternative Action. If by reason of any of the above conditions, a structure is unfit, but no public necessity is found for its immediate demolition, the Building Official may take other action, such as causing the property to be cleaned, cleared, vacated, secured, or otherwise repaired, which will promote the public health, safety, or general welfare.
  
- F. Findings and Order. If, after the required hearing, the Building Official determines that the dwelling or other structure or premises is unsafe or unfit for human habitation or that the structure or premises is unfit for other use, he or she shall make written findings of fact in support of that determination, and shall issue and cause to be served upon each owner and party in interest thereof, as provided in Subsection (A) of this section, and shall post in a conspicuous place on the property, an order which (i) requires the owner or party in interest, within the time specified in the order, to repair, alter, or improve such dwelling, structure, or premises to render it fit for human habitation, or for other appropriate use, or to vacate and close the dwelling, structure, or premises, if that course of action is deemed lawful and reasonable on the basis of the standards set forth as required in Subsections (c) and (d) of this section; or (ii) requires the owner or party in interest, within the time specified in the order, to remove or demolish the dwelling, structure, or premises, if that course of action is deemed lawful and reasonable on the basis of those standards. An order may require the owner to take effective steps to board up or otherwise bar access to the structure or premises, if deemed necessary for public safety, pending further abatement action. The order may be in substantially the same form which appears below and may include notice of additional penalties or remedies available to the City under other provisions of this code.

BEFORE THE CITY OF BENTON CITY  
BUILDING OFFICIAL

|                        |   |                    |
|------------------------|---|--------------------|
| In Re: The premises at | ) | No.                |
| _____                  | ) | ORDER OF ABATEMENT |
| (address)              | ) |                    |

\_\_\_\_\_ )  
ON THE \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m./p.m., at (list place, address), a hearing was held before the City of Benton City Building Official pursuant to notice given by him/her through a Complaint issued on \_\_\_\_\_, 20\_\_\_\_. (If applicable list who appeared and short summary of testimony). The Building Official after hearing made the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. (List out)

CONCLUSIONS OF LAW

1. (List out)

WHEREON, the Building Official issued the following Order:

ORDER

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_, Building Official  
City of Benton City  
PO Box 70  
Benton City WA 99320  
(509) 588-3322  
(509) 588-3323 - Facsimile

If no appeal is filed as provided in this chapter, a copy of the order shall be filed with the Benton County Auditor, and shall be a final order.

The Code Enforcement Officer and/or Building Official shall make and retain a record of service, substantially in the form prescribed in BCMC 15.24.050(A), which such modifications as may be appropriate.

- G. Abatement by City. If the owner, following exhaustion of his or her rights of appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove or demolish the dwelling, structure, or premises, or to take other required action, the Code Enforcement Officer may direct or cause such dwelling, structure, or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished, and to take such

further steps as may be reasonable and necessary to prevent access to the structure or premises, for public health or safety reasons, pending abatement. The Code Enforcement Officer, with the assistance of the City Attorney, may apply to the Superior Court for any legal or equitable remedy to enforce his or her order.

**15.24.060** **Abatement Costs.** The cost of the abatement of such nuisance may be paid out of the treasury of the City and charged to the owner of the property subject to abatement. Such cost shall be levied as a special assessment against the real property subject to abatement and the same shall be collected in the manner provided for collection of local improvement assessments. The amount of the cost of such repairs, alternations, or improvements; or vacating and closing; or removal or demolition, shall be assessed against the real property upon which such cost was incurred unless such amount has been paid previously, and such cost shall be certified by the City Treasurer to the County Treasurer as an amount due and owing to the City, pursuant to RCW 35.80.030, to be entered by the County Treasurer as an assessment upon the tax rolls against the property for the current year and to 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 is 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 City's general fund. If the dwelling or other structure or premises is removed or demolished, the City shall, if possible, sell the materials of the dwelling, structure, or premises, in the usual manner prescribed by city ordinance for selling surplus property. If there is no other established procedure, the City shall sell the materials as public auction pursuant to notice published in the City's official newspaper or at least ten days prior to the auction. The proceeds of the sale shall be credited against the cost of the removal or demolition, and if there is any balance remaining, it shall be paid to the parties entitled thereto, as determined by the City, after deducting costs incident to the sale.

As provided in RCW 35.80.030, the assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes.

Whenever a building or premises is found to be unsafe or unfit and the cost of demolition or other abatement must be incurred by the City, there shall be charged against the property the costs of all administrative proceedings before the Code Enforcement Officer, Building Official, and the Hearing Examiner including, but not limited to, salaries, wages, benefits, material, equipment rental, and other expenses incurred for inspecting, conducting hearings, or otherwise determining the status of the property.

The Building Official or Hearing Examiner may modify the time or methods of payment of such expenses as the condition of the property and the circumstances of the owner may warrant.

**15.24.070** **Right to Appeal.** The owner or any party in interest, within thirty (30) days from the date of service upon him or her and the posting of an order issued by the Building Official under the provisions of Section 15.24.060 of this chapter, may appeal by filing a written notice of appeal, together with the applicable fee, with the Hearing Examiner or his or her designee. The appeal need not be in a particular form, but must clearly state that the person identified in the notice of appeal is the person to whom an order of abatement was given, the date of the order and notice of the appeal, and the reason or reasons why the person believes the notice to be in error.

**15.24.080** **Appeals.**

- A. The Hearing Examiner shall have jurisdiction to hear appeals of orders of abatement.
1. The Hearing Examiner or his or her designee shall arrange a reasonable time and place for hearing the appeal within not less than ten (10) nor more than twenty (20) days after the appeal has been filed, and notify the person who is appealing (the "appellant") regarding the designated time and place. The hearing shall be scheduled so as to allow ten (10) or more days notice to the appellant and all interested parties and to permit final decision by the Hearing Examiner within sixty (60) days after the filing of the appeal. The filing of the notice of appeal shall stay the order of the Building Official, except insofar as temporary measures of an emergent nature are required, such as securing the building to minimize any imminent danger to the public health or safety.
  2. The matter must be concluded by the Hearing Examiner within sixty (60) days after the date the appeal has been filed unless continued for a specified time with the consent of the appellant as provided in this section.
  3. The Hearing Examiner shall conduct a full and fair review of the record of the proceedings before the Building Official, and the action taken. The hearing shall be on the record and not de novo. Normally the Hearing Examiner will not accept new evidence or evidence not made available to the Building Official in the absence of good cause. However, the Hearing Examiner may allow presentation of new evidence at his/her discretion and may continue the matter for that purpose in the interest of conducting a full and fair hearing, if it will not cause the hearing to extend beyond the required sixty-day period. With the consent of the appealing

party, a continuance may extend the hearing for a specified number of days beyond that period for further evidence or deliberation. If the Hearing Examiner fails to reach a decision within the required time, or the time extended with the appellant's consent, the Building Official's order and findings shall be deemed to be those of the Hearing Examiner, and shall be deemed final and subject to review by the Superior Court.

4. The Hearing Examiner may affirm, modify, reverse, or return with directions, the action or decision appealed in the event he or she finds an error of law or the record is not supported by substantiated evidence.
  5. At the conclusion of the hearing the Hearing Examiner shall issue a written decision describing the decision or action appealed, making written findings of fact and stating the reasons for his or her decision, and making an appropriate order or orders, notify the appellant in writing of his or her action, and file the decision, findings, and orders with the Benton County Auditor. A transcript of the Hearing Examiner's decision, findings, and orders shall be made available to the appellant, on demand.
  6. The Hearing Examiner may promulgate additional written rules of procedure for the conduct of proceedings, to ensure a prompt and thorough review of appeals.
  7. The decision, findings, and orders of the Hearing Examiner shall be reported in the same manner and shall bear the same legal consequences as if issued by the Building Official, and shall be subject to further review only in the manner and to the extent provided in Subsection B of this section. If it is not timely and correctly appealed under Subsection B of this section, the Hearing Examiner's decision is final.
- B. Any person affected by an order issued by the Hearing Examiner pursuant to this section may, within thirty (30) days after the posting and service of the order, petition the Superior Court for an injunction or other appropriate order restraining the City or its agent from carrying out the provisions of the order. As provided by RCW 35.80.030, in all such proceedings the court may affirm, reverse, or modify the order and the trial shall be de novo.
- C. The order of the Building Official or the Hearing Examiner may prescribe times within which demolition or other abatement shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time limit for

appealing, the Code Enforcement Officer may commence the required abatement action after having taken the legally required steps, if any, to gain entry. If satisfactory progress has been made and sufficient evidence is presented that the work will be completed within a reasonable time, the Building Official or the Hearing Examiner may extend the time for completion of the work, subject to immediate summary revocation at any time without further hearing if satisfactory progress is not being made.

- D. If the owner is unable to comply with the Building Official's or the Hearing Examiner's order within the time required, and the time for appeals to the Hearing Examiner or petition to the court has passed, the owner may, for good and sufficient cause beyond his or her control, request an extension of time in writing supported by affidavit. The Building Official or Hearing Examiner may grant a reasonable extension of time after finding that the delay was beyond the control of the owner. There shall be no appeal or petition from the denial of an extension of time.
- E. Any work including demolition, construction, repairs, or alterations required under this chapter shall be subject to permitting requirements pursuant to the Benton City Municipal Code.

**15.24.090** **Service Completed When.** Service of filing by mail of any complaint, notice, order, notice of appeal, or other paper under this chapter shall be deemed complete at the end of the third full day following its deposit in the U.S. Mail, correctly addressed, with postage prepaid.

**15.24.100** **Supplemental Chapter.** Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its ordinances or regulations or to prevent or punish violations of such ordinances or regulations; and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other statute or ordinance.

**15.24.110** **Nuisances: Powers Reserved.** Nothing in this chapter shall be construed to impair or limit in any way the City's power to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

**15.24.120** **Additional Violations and Penalties.**

- A. It shall be unlawful and a violation of this chapter to knowingly:
  - 1. Occupy or allow to be occupied any building or premises ordered vacated;
  - 2. Fail to comply with any order issued pursuant to this chapter;

3. Obstruct, hinder, or provide false information to any officer or agent of the City of Benton City or other authorized governmental unit or agency in the enforcement of this chapter.

A violation of this section is a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (1,000) and/or jail confinement of not more than ninety (90) days. Each day of violation shall constitute a separate offense. In the event of continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor, punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment for not more than three hundred and sixty-five (365) days or both such fine and imprisonment.

- B. As a separate and alternate monetary penalty to the criminal penalty above, there is hereby imposed a civil penalty for failure to comply with an order of abatement within the time specified on such order, including but not limited to the following offenses:

1. To occupy or to allow to be occupied any building or premises ordered vacated;
2. Failure to comply with any order issued pursuant to this chapter;
3. To obstruct, hinder, or provide false information to any officer or agent of the City of Pasco or other authorized governmental unit or agency in enforcement of this chapter.

Each day of violation shall constitute a separate offense. The daily maximum penalty for failure to comply with an order of abatement on a first-time violation shall not exceed Five Hundred Dollars (\$500), and shall not exceed a cumulative of Five Thousand Dollars (\$5,000) over the course of ten (10) days. Monetary penalties for repeat violations may exceed these limits.

**15.24.130** **Emergencies.** The provisions of this chapter shall not prevent the Code Enforcement Officer or any other officer or agency of the City of Benton City 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.

**15.24.140** **Discrimination prohibited.** All proceedings under this chapter shall be subject to the anti-discrimination provisions of RCW 35.80.040.

**15.24.150** **Warrants for Entry.**

- A. Whenever it is necessary to enter upon private property or the public property of another governmental agency to carry out the lawful directions



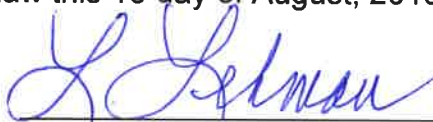
of this chapter, the City may apply to a court of competent jurisdiction for a warrant authorizing the entry upon such property carry out the same, if permission to enter has been refused by the owner or person in possession, or if the owner cannot be found or reasonably ascertained.

- B. The application for a warrant shall be supported by an affidavit or the testimony of the officer intending to enter upon the property stating his office, purpose, and authority to so enter, the owner's or person in possession refusal to permit such entry or the owner's unavailability, the work, action, or other activity to be conducted upon the property and by whom and approximate time the activity will be conducted.
- C. If the court finds just cause for the issuance of the warrant, it shall subscribe the same with a return date of not more than ten (10) days following completion of the action or activity to be conducted upon the property.
- D. Nothing in this section is intended to limit, restrict, or otherwise affect the right of officers or agents of any governmental entity to enter upon private or public property for any lawful purpose.

**15.24.160** **Adoption of RCW in its Entirety.** The City of Benton City adopts the entirety of RCW 35.80, including both provisions listed above in this chapter and provisions listed in RCW 35.80 that are not included expressly in this chapter.

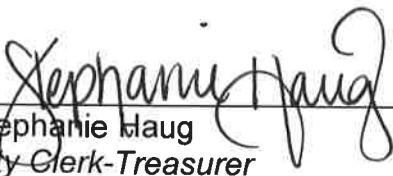
**Section 2.** This Ordinance shall be effective five days after its passage, approval and publication as required by law.

**PASSED** by the City Council of the City of Benton City, Washington, and approved as provided by law this 16 day of August, 2016.

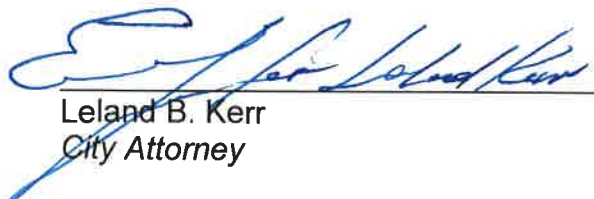


Linda Lehman  
Mayor

Attest:

  
Stephanie Haug  
City Clerk-Treasurer

Approved as to Form:

  
Leland B. Kerr  
City Attorney