

CITY OF BUCKLEY

ORDINANCE NO. 08-24

AN ORDINANCE OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON ADOPTING THE 2021 INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMENDMENTS THEREWITH TO INCLUDE REQUIREMENTS OF CHAPTER 35.80 RCW THAT ENHANCE THE CITY'S ABILITY TO ABATE DANGEROUS/UNINHABITABLE STRUCTURES AND RECOUP THE EXPENSES THEREWITH.

WHEREAS, Chapter 35.80 RCW provides highly effective legal tools to Washington communities to condemn dangerous buildings and structures along with measures to recoup the expenses thereof; and

WHEREAS, as a condition of implementing the condemnation authority of Chapter 35.80 RCW, RCW 35.80.030 requires the local adoption of specified condemnation procedures; and

WHEREAS, the intent of this ordinance is to adopt the required provisions of RCW 35.80.030 by integrating them into the 2021 edition of the International Property Maintenance Code;

Now, therefore, be it ordained by the council of the City of Buckley, Pierce County, Washington as follows:

Section 1: Chapter 16.08 BMC is repealed.

Section 2: A new Chapter 16.08 BMC "International Property Maintenance Code" is adopted, to provide as follows:

The International Property Maintenance Code (2021 Edition), published by the International Code Council, to be known hereafter as the "International Property Maintenance Code" or the "IPMC" is adopted by reference as if set forth in full, subject to the following amendments:

A. Section 101.2, Scope, is amended to read as follows:

101.2 Scope and Purpose.

Pursuant to chapter 35.80 of the Revised Code of Washington (RCW), the City Council finds that there can be within the City of Buckley, dwellings that are unfit for human habitation and buildings, structures, and premises or portions thereof which are unfit and/or unsafe for other uses due to dilapidation, disrepair, structural defects, unpermitted and substandard construction or modification, filth and other conditions attracting insects or vermin or likely to spread disease,

defects increasing the hazards of fire, accidents, or other calamities, or other similar conditions and violations of various building, health, and safety regulations, and/or which are vacant, unsecured, and abandoned or apparently abandoned.

Such dwellings, buildings, structures, and premises are dangerous to occupants, threaten the public health, safety, and welfare, attract and harbor vagrants and criminals, offend public values, lower the value of neighboring properties, contribute to neighborhood or community deterioration, and hamper community and economic development.

When the owners or other persons in possession or control of such properties are unwilling or unable to correct such conditions in a proper and timely manner, it is in the interest of the community for the City to intervene and correct, repair, or remove such buildings, structures, and conditions and to pursue all legal means to recover from such persons and/or properties the costs of doing so, including the costs of staff salaries and benefits, materials, contractors, and all other legally recoverable costs and expenses.

The purpose of adopting the IPMC as amended herein is to protect the public as a whole and there is no intent or purpose to protect a specific class of individuals. Nothing in the adoption of the IPMC and its amendments is intended to create any cause for liability on behalf of the City, including but not limited to failure to enforce under Washington State's judicially created public duty doctrine. The authority granted to the Code Official by the IPMC should be construed as discretionary and not mandatory. Any mandatory provisions of the IPMC requiring demolition should be construed as authorizing the securing of a structure or building from access in the alternative.

B. Section 104.1, General, is amended to read as follows:

104.1 Authority of Code Official.

The Code Official is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of the IPMC. These powers shall include the following in addition to others granted in this Chapter: (a)(i) To determine which dwellings are unfit for human habitation; (ii) to determine which buildings, structures, or premises are unfit for other use; (b) to administer oaths and affirmations, examine witnesses, and receive evidence; (c) to post structures as unfit and/or dangerous for use as provided in the IPMC; and (d) to investigate the dwelling and other property conditions and to enter upon premises for the purpose of making examinations when the Code Official has reasonable ground for believing they are unfit for human habitation, or for other use; and, PROVIDED, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose after submitting evidence in support of an application which is adequate to justify such an order from a court of competent jurisdiction in the event entry is denied or resisted; PROVIDED FURTHER that the Code Official may recognize and give appropriate effect to special and extenuating circumstances which, in order to do substantial justice, warrant the exercise of discretion to adjust the timeframes, standards and other provisions of this chapter. Examples of circumstances which may warrant such exercise of discretion include, without limitation, medical illness or disability affecting a property owner's ability to respond to orders or appear at hearings

and bona fide insurance coverage disputes which create a definite risk that enforcement of this chapter would unfairly result in a substantial economic loss to the property owner.

C. Section 107, Notices and Orders, is renamed "Section 107, Procedures."

D. Section 107.1, Notice to person responsible, is replaced as follows:

107.1 Inspection and Complaint.

If, after a preliminary investigation of any dwelling, building, structure, or premises, the Code Official finds that it is dangerous or unfit for human habitation or other use, he is authorized to serve either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the Pierce County Auditor, and shall post in a conspicuous place on such property and/or structure, a complaint stating in what respects such dwelling, building, structure, or premises is unfit and/or dangerous for human habitation or other use. If the whereabouts of any of such persons is unknown and the same cannot be ascertained by the Code Official in the exercise of reasonable diligence, and the Code Official makes an affidavit or declaration to that effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the complaint and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the structure involved in the proceedings, and mailing a copy of the complaint and order by first class mail to any address of each such person in the records of the Pierce County Treasurer-Assessor or Auditor. Such complaint shall contain a notice that a hearing will be held before the Code Official, at a place therein fixed, not less than ten days nor more than thirty days after the serving of the complaint; and that all parties in interest shall be given 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 in hearings before the Code Official. A copy of such complaint shall also be filed with the Pierce County Auditor and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

E. Section 107.2, Form, is replaced as follows:

107.2 Findings and Order.

A. If, after the required hearing, the Code Official determines that the dwelling is dangerous or unfit for human habitation, or building or structure or premises is unfit and/or dangerous for other appropriate use, he/she shall state in writing his/her findings of fact in support of such determination, and shall issue and cause to be served upon the owners and parties in interest thereof, as provided in this section, and shall post in a conspicuous place on the property, an order that (i) requires the owners and parties in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, structure, or premises to render it fit for human habitation, or for other appropriate use, or to vacate and close the dwelling, building, structure, or premises, if such course of action is deemed proper on the basis of the standards set forth in this section; or (ii) requires the owners and parties in interest, within the time specified in the order, to remove or demolish such dwelling, building, structure, or premises, if this course of action is deemed proper

on the basis of those standards. If no appeal is filed, a copy of such order shall be filed with the Pierce County Auditor.

B. In ordering the required course of action to be taken by the owner to abate the unfit or dangerous structure, the Code Official may order the structure or a portion thereof demolished and not repaired under the following circumstances:

- i. The structure is patently illegal with regard to building, zoning, or other regulations;
- ii. The estimated cost to repair the structure or portion thereof is more than 50% of the value of the structure or portion thereof; or,
- iii. The estimated cost to repair the structure or portion thereof is less than 50% of the value and repairing and/or securing the structure from entry would, nevertheless, cause or allow the structure to remain a hazard or public nuisance.

The value of the structure shall be as determined by the Pierce County Assessor-Treasurer. In estimating the cost of repairing the structure, the Code Official may rely upon such cost estimating publication or method the Building Official deems appropriate.

F. Section 110.1, General, is amended by the addition of the following paragraph:

In enforcement of this section, the Code Official may have the structure demolished, even if the order does not require demolition, if the estimated cost to repair the structure or portion thereof is less than 50% of the current county assessed value of the structure, the structure is abandoned or the owner is unresponsive, and repairing and/or securing the structure from entry would, nevertheless, cause or allow the structure to remain a hazard or public nuisance, continue a non-conforming use, or otherwise be an unreasonable use of public funds. Such demolition shall be the result of the issuance and service of a complaint and subsequent hearing following the same procedures as for an initial complaint governed by IPMC 107.1. Said procedures may be waived to the extent necessary, after issuance of findings of fact in support, to prevent an immediate material threat to public health and/or safety.

G. Section 111, Means of Appeal, is deleted and replaced as follows:

111 Appeals.

Within thirty days from the date of service upon the owner and posting of the decision issued by the Code Official, the owner or any party in interest may file an appeal with the City Clerk for a hearing before the Hearing Examiner. An appeal is barred, and the Hearing Examiner may not grant review unless the appeal is timely filed with the City Clerk. All matters addressed by the Hearing Examiner shall be resolved by the Hearing Examiner within sixty days from the date of filing therewith and a transcript of the findings of fact of the Hearing Examiner shall be made available to the owner or other party in interest upon demand. The 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 Code Official.

Absent an injunction issued by a court of competent jurisdiction, the decision of the Hearing Examiner shall be final thirty days after issuance.

H. Section 112.4, Failure to comply, is deleted and replaced as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of five hundred dollars (\$500.00) per day of violation subject to appeal as provided in IPMC 111. The Code Official shall issue a notice of violation for any such violation identifying the code provision in violation, a brief summary of the facts of violation, the dates of violation, the monetary penalty and the means of appeal.

I. A new section titled 113, Enforcement of Order, is added.

J. Section 113.1, Enforcement of order, is added and reads as follows:

If the owners or parties in interest, following exhaustion of his or her rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, structure, or premises, the Code Official may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated and closed, removed, or demolished. Any new order to demolish shall be the result of the issuance and service of a complaint and subsequent hearing following the same procedures as for an initial complaint governed by IPMC 107.1. Said procedures may be waived to the extent necessary, after issuance of findings of fact in support, to prevent an immediate material threat to public health and/or safety.

In the enforcement of this section, the Code Official is authorized to enter the structure and/or premises for inspection, testing, sampling, or other purposes preparatory to and in the conduct of the repairs, demolition, or other actions, to hire contractors as necessary to perform the work, and to spend public funds to complete the work.

K. Section 113.2, Sale or disposal of materials, is added and reads as follows:

Prior to removing or demolishing the dwelling, building, structure, or premises, the Code Official shall, if reasonably possible, attempt to sell the materials and/or contents of the dwelling, building, structure, or premises, and shall credit the proceeds of such sale against the cost of the removal or demolition and, if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the Code Official, after deducting the costs incident thereto.

L. Section 113.3, Recovery of expenses, is added and reads as follows:

The amount of the cost of such repairs, alterations or improvements; or vacating and closing; or removal or demolition by the Code Official, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Pursuant to RCW 35.80.030(1)(h), the

amount of such costs shall constitute a lien against the property of equal rank with state, county, and municipal taxes.

For purposes of this section, the cost of vacating and closing shall include (i) the amount of relocation assistance payments that a property owner has not repaid to the City of Buckley or other local government entity that has advanced relocation assistance payments to tenants under RCW 59.18.085; (ii) all penalties and interest that accrue as a result of the failure of the property owner to timely repay the amount of these relocation assistance payments under RCW 59.18.085; and (iii) all other reasonable expenses, including but not limited to, the costs of staff time, materials, incidentals, mailing, publishing, and recording notices. Upon certification to him, by the Code Official, of the assessment amount being due and owing, the County Assessor/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 for in RCW 84.56.020 for delinquent taxes, and when collected to be deposited to the credit of the general fund of the City.

M. Section 202, Definitions, add "Code Official."

"Code Official" shall mean the City's building official or other official, employee or contractor designated by the mayor.

N. Section 106.4 shall be replaced with the following:

The following shall be punishable as a misdemeanor:

1. Persons who shall violate a provision of the IPMC or fail to comply with any of the requirements thereof; or
2. Persons who erect, install, alter, repair or do work in violation of the approved construction documents or directive of the building inspector in implementation of the IPMC, or of a permit or certificate used under the provisions of the IPMC; or
3. Persons who materially deface, alter, move or remove any sign or notice issued under the IPMC or in pursuance of warning the public of a dangerous and/or unfit building or structure or any such notice/sign that prohibits occupancy or use of a building or structure. Such actions shall also include violations of IPMC 107.4.
4. Persons who occupy, use or enter upon any structure ordered and posted as vacated pursuant to the IPMC.

Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 2: If any provision of this ordinance is in conflict with other existing ordinances or resolutions, this ordinance shall prevail as to the days of operation of City Hall.

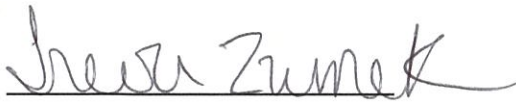
Section 3: If any provision of this ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this ordinance shall remain in force and affect.

PASSED and APPROVED BY THE City Council of the City of Buckley on the 9th day of
July 2024.



Beau Burkett, Mayor

ATTEST:



Treva Zumeck, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

Published: July 17, 2024

Effective: July 22, 2024