

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 14-22

**AN ORDINANCE OF THE CITY OF BUCKLEY, PIERCE COUNTY,
WASHINGTON, ENACTING NEW CODE ENFORCEMENT PROCEDURES, AND
FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.**

WHEREAS, Buckley's existing code enforcement procedures are found to be confusing, conflicting, contradictory and difficult to implement; and

WHEREAS, whereas the City Attorney, Police Department and Department of Building and Planning have worked together to craft a more efficient, legally correct and implementable code enforcement process; and

WHEREAS, this code update process is exempt from the State Environmental Policy Act; and

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. BMC Sections 1.04.010 and 1.04.020 are amended as follows:

1.04.010 Types of violations.

- (1) Misdemeanors and gross misdemeanors shall be prosecuted by the city prosecutor and processed in the municipal court pursuant to the Criminal Rules for Courts of Limited Jurisdiction (CrRLJ).
- (2) The city prosecutor shall also have the authority to prosecute infractions as governed by the Infraction Rules for Courts of Limited Jurisdiction (IRLJ).
- (3) The municipal court shall have the authority to adopt such local rules it deems necessary to process cases pursuant to this chapter.

1.04.020 Penalties.

- (1) Gross Misdemeanor. Every person convicted of a gross misdemeanor shall, unless otherwise specified, be punished by a fine not to exceed \$5,000 or by confinement in jail for a term not to exceed 364 days or by both such fine and confinement.
- (2) Misdemeanor. Every person convicted of a misdemeanor shall, unless otherwise specified, be punished by a fine not to exceed \$1,000 or by confinement in jail for a term not to exceed 90 days or by both such fine and confinement.
- (3) Infractions. Unless otherwise specified by applicable law, infraction penalties shall be as set by the IRLJ.

Section 2. BMC Chapter 1.12 Code Enforcement is hereby repealed and replaced as follows:

Chapter 1.12

CODE ENFORCEMENT

Sections:

- 1.12.010 Purpose.**
- 1.12.020 Definitions.**
- 1.12.030 Penalties.**
- 1.12.040 General provisions.**
- 1.12.050 Service of documents.**
- 1.12.060 Right of inspection.**
- 1.12.070 Stop work order.**
- 1.12.080 Notice of violation.**
- 1.12.090 Voluntary compliance.**
- 1.12.100 Civil penalty.**
- 1.12.110 Notice of noncompliance.**
- 1.12.120 Appeal.**
- 1.12.130 Compliance.**
- 1.12.140 Collection.**
- 1.12.150 Abatement by the city.**
- 1.12.160 Abatement – Vegetation and debris.**
- 1.12.170 Other recourse.**

1.12.010 Purpose.

The purpose of this chapter is to establish an efficient system of enforcing city regulations that will enable violations to be promptly resolved whenever possible, while providing appropriate penalties and a full opportunity for alleged violators to have a hearing to contest the violations. It is the express and specific purpose and intent of this chapter to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

1.12.020 Definitions.

- A. “Code enforcement documents” means documents related to code enforcement, including but not limited to notices of violation, notices of civil penalty, stop work orders, and notices of noncompliance.
- B. “Code official” means an official designated by the mayor or designee identified to enforce the provisions of the BMC, or any law enforcement officer.
- C. “Person in control” means any person who possesses or has control over the premises, or who is responsible for creating, maintaining or permitting a violation, whether as owner, tenant, occupant, or otherwise. There may be more than one person in control for purposes of this Chapter. (“Possess” in this context means to live in, or stay at a premises, and/or to literally possess or have their name on a title, deed, mortgage or an agreement related to the premises.) If the person in control is not the legal owner, the person in control and owner are both jointly liable for any chronic nuisance. Both the owner and person in control are subject to the provisions

and remedies of this Chapter. Application of this Chapter against one party does not preclude application to another party who is an owner or person in control of a chronic nuisance premises.

C. "Violation" means an act or omission contrary to the requirements of Titles 8, 12 and 15-20 BMC or any permit conditions, notices or orders issued pursuant to those titles.

1.12.030 Penalties.

A. Violations may be enforced by issuing notices of violation, recording notices of noncompliance, civil penalties, and/or criminal penalties.

B. The penalties listed in this chapter may be imposed in conjunction and do not preclude application of other penalties, sanctions, or rights of action provided by law.

C. Unless otherwise specifically provided in connection with particular sections, chapters or titles of the city code, noncriminal violations of the city code shall be infractions and shall carry a maximum penalty of \$250.00. Each day, location, violator and incident shall constitute a separate civil infraction.

D. It is provided, however, that if the same violator has been found, in any court of competent jurisdiction, to have previously committed an infraction violation for the same or similar conduct three or more separate times, with the infraction violations occurring at the same location and involving the same or similar sections of BMC Titles 4, 6, 8, 9, 10, 11 (Chapter 11.44), 12 (Chapter 12.12), 14, 15, 16 (Chapter 16.01), 17, 18 or 19, or other similar code(s), any further violations shall constitute misdemeanors, punishable as provided in BMC 1.04.020.

E. The penalties assessed in this chapter are in addition to any investigation fees provided in Chapter 16.06 BMC.

F. Payment of a penalty does not relieve the violator of the duty to correct the violation.

G. Each day a violation is documented shall constitute a separate offense.

H. The presence of a violation on a property shall constitute *prima facie* evidence that the owner of the property is the violator. However, this shall not relieve or prevent enforcement against any other responsible person.

1.12.040 General provisions.

A. In the event a conflict exists between the enforcement provisions of this chapter and the enforcement provisions of any international or uniform code, statute, or regulation that is adopted in the Buckley Municipal Code and subject to the enforcement provisions of this chapter, the enforcement provisions of this chapter will prevail, unless the enforcement provisions of this chapter are preempted or specifically modified by said code, statute, or regulation.

B. Responsibility for violations of the codes enforced under this chapter is joint and several, both as to duty to correct and to payment of monetary penalties and costs, and the city is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the city required to take action against all persons potentially responsible for a violation.

C. In computing any period of time prescribed or allowed by this code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last

day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday.

D. Any person who intentionally intimidates, obstructs, impedes, or interferes with any lawful attempt to serve a notice of violation, stop work order, or emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation, or removes any notice posted on property such as a vacation or condemnation notice or stop work order necessary for public safety, shall be guilty of a misdemeanor.

E. A violation does not become legal by lapse of time. The responsibility established in subsection F of this section runs with the land and shall be binding on all parties having or acquiring any right, title, interest, or any part thereof the site, including the grantee, heirs, successors, and assigns. Every successive owner of the property or premises shall assume this duty and responsibility.

1.12.050 Service of documents.

A. Service of code enforcement documents shall be accomplished by one of the following methods of service; provided, that criminal charges shall be served as provided by applicable law:

1. "Personal service" is accomplished by handing the document to the person subject to the document or leaving it at his or her last known dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or leaving it at his or her office or place of employment with a person in charge thereof. Personal service may also be accomplished by the hearing examiner or his or her assistant handing any order, ruling, decision, or other document to a person prior to, during, or after a hearing.
2. "Service by mail" is accomplished by sending the document by regular first-class mail to the last known address of the person subject to the document. The last known address shall be an address provided to the city by the person to whom the document is directed. If an address has not been provided to the city, the last known address shall be any of the following as they appear at the time the document is mailed: the address of the property where the violation is occurring, as reflected on the most recent equalized tax assessment roll of the county assessor, or the taxpayer address appearing for the property on the official property tax information website for Pierce County; the address appearing in any database used for the payment of utilities for the property at which the violations are occurring; or the address of the person to whom the documents are being sent that appears in the Washington State Department of Licensing database.
3. "Service by posting" is accomplished by affixing a copy of the document in a conspicuous place on the subject property or structure, or as near to the affected property or structure as feasible, with at least one copy of such document placed at an entryway to the property or structure, if an entryway exists.
4. "Service by publication" is accomplished by publishing the document as set forth in RCW 4.28.100 and 4.28.110, as currently enacted or hereafter amended.

B. If service is accomplished by personal service, service shall be deemed complete immediately. If service is accomplished by mail or posting, service shall be deemed complete upon the third business day following the day on which the document is placed in the mail or posted. If service

is accomplished by publication, service shall be deemed complete upon the publication of the document as set forth in RCW 4.28.110.

C. No additional proof of service beyond the requirements in this chapter shall be required by the hearing examiner or other entity. Any failure of the person to whom a document is directed to observe a document served by posting or publication shall not invalidate service made in compliance with this section, nor shall it invalidate the document.

1.12.060 Right of inspection.

The code official may inspect buildings, structures or premises for compliance with Chapter 8.18 BMC and BMC Titles 12 Environment, 16 Buildings and Construction, 18 Subdivisions, 19 Zoning and 20 Land Use and Development allowed by law.

1.12.070 Stop work order.

A. The code official may order any activity stopped if:

1. A required permit was not obtained;
2. The work violates the development code or any permit condition;
3. The work is being completed in a dangerous or unsafe manner;
4. The permit was based on erroneous information submitted by the applicant; or
5. The work has become a hazard to life or property due to weather or other conditions.

B. The stop work order shall be in writing stating the reason for the order and the conditions under which the cited work will be able to resume.

C. The stop work order shall be posted at the site.

D. Upon issuance of a stop work order all work shall immediately cease; except work authorized by the code official to address an unsafe condition. Any person who shall continue working after being served with a stop work order shall be subject to the penalties prescribed in BMC 1.12.030.

1.12.080 Notice of violation.

Whenever, upon a reasonable belief by the code official, a violation exists, a code official may issue a notice of violation to a landowner(s) and/or other person in control, containing the following:

- A. The street address, parcel number(s), or description of the building, structure, premises, or land in terms reasonably sufficient to identify its location;
- B. A description of the violation(s);
- C. A reference to the title, chapter, and section of the BMC, regulation or written order which has been violated, if applicable;
- D. A description of the action required to abate the violation, which may include corrections, repairs, demolition, removal, request for an inspection to demonstrate that the violation does not

exist, or any other appropriate corrective action, and a deadline by which voluntary abatement must be completed;

E. A statement indicating that civil penalties may be assessed for failure to take corrective action by the required deadline;

F. A statement indicating that failure to appeal the notice of violation or failure to attend any appeal hearing shall result in the violation being deemed committed without requiring further action by the city;

G. A statement indicating that payment of a civil penalty does not relieve the person or entity named in the notice of violation of the duty to abate the violation, and that failure to abate may result in the issuance of additional notices of violation and/or criminal charges, with additional civil and/or criminal penalties;

H. A statement that the city's preferred approach to the resolution of the violation is to obtain voluntary compliance as provided in BMC 1.12.090 which allows the property owner to enter into either a work plan not to exceed six months or a voluntary correction agreement to provide additional time to voluntarily abate the violation;

I. A statement that a notice of violation is appealable to the hearing examiner under the provisions of BMC Chapter 20.32 Appeals and 1.12.120.

1.12.090 Voluntary compliance.

A. The code official may attempt to secure voluntary correction prior to issuing a notice of civil penalty, recording a notice of noncompliance with Pierce County, and/or pursuing criminal charges.

B. In attempting to secure voluntary compliance, the city shall contact the alleged violator, explain the violation, and request correction within a specific time frame.

C. If the alleged violator needs six months or less to resolve the violation, the city and the alleged violator can develop a work plan to resolve the violation. The work plan shall describe the work to be performed, include a statement that failure to adhere to the work plan may result in civil penalties or criminal charges in accordance with BMC 1.12.030, and a statement that the city may abate the code violation and assess costs against the owner or property if the work plan is not followed.

D. If the alleged violator needs more than six months to resolve the violation, the city and the alleged violator can enter into a formal voluntary correction agreement. A voluntary correction agreement will generally contain the following information:

1. The name and address of a 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 description of the violation and a reference to the code provisions that have been violated;
4. A statement indicating what corrective actions are required and a deadline by which the corrective actions must be completed to the satisfaction of the code official;

5. An agreement by the person in possession and control of the property that the city may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;
6. An agreement by the person responsible for the violation and/or the owner(s) of the property on which the violation has occurred or is occurring that, if the terms of the voluntary correction agreement are not met, the city may enter the property, abate the violation, and recover its costs and expenses as provided in this chapter;
7. An agreement that, by entering into the voluntary correction agreement, the person responsible for the violation waives the right to a hearing before the hearing examiner under this chapter regarding the violation, any penalty, and/or required corrective action; and
8. A statement indicating that additional enforcement measures may be taken as allowed by this chapter, including issuance of notice of violation, with each violation constituting a separate offense subject to civil penalties and/or criminal charges, for failure to comply with the voluntary correction agreement.

E. An extension of the deadline for voluntary correction, or a modification of any required corrective action, may be granted by the code official if the person responsible for the violation has, in the opinion of the code official, shown due diligence or made substantial progress in correcting the violation but unforeseen circumstances have rendered correction unattainable within the original deadline.

1.12.100 Civil penalty.

The code official may issue a civil penalty in the amount of \$1,000 for each day the violation has been documented by the city, or any term of a voluntary correction agreement, work plan, or notice of violation. The notice of civil penalty shall include:

- A. The street address, parcel number(s), or description of the building, structure, premises, or land in terms reasonably sufficient to identify its location;
- B. A description of the violation(s);
- C. A reference to the title, chapter, and section of the BMC, regulation or written order which has been violated, if applicable;
- D. A description of the action required to abate the violation, which may include corrections, repairs, demolition, removal, request for an inspection to demonstrate that the violation does not exist, or any other appropriate corrective action, and a deadline by which voluntary abatement must be completed;
- E. A statement indicating the amount of the civil penalties that have been assessed for failure to take corrective action by the required deadline and that the payment of the civil penalties is due within 15 days;
- F. A statement indicating that payment of a civil penalty does not relieve the person or entity named in the notice of violation of the duty to abate the violation, and that failure to abate may result in the issuance of additional civil and/or criminal penalties;

G. A statement that a notice of civil penalty is appealable to the hearing examiner under BMC Chapter 20.32 Appeals and 1.12.120.

1.12.110 Notice of noncompliance.

A. In conjunction with the assessment of civil penalties, the city may record a notice of noncompliance with the Pierce County auditor against the property on which a violation has taken place.

B. The notice of noncompliance is to notify interested parties, lenders, and subsequent purchasers that a violation(s) exists on the property and the amount of the civil penalties assessed; provided, that:

1. Prior to recording a notice of noncompliance, the city shall provide written notice to the owner of the city's intent to record the notice of noncompliance. Notice shall be delivered either personally or by mailing a copy of such notice.

2. The notice of noncompliance shall recite that the documented violations stay with the property and correction becomes the responsibility of subsequent property owners.

3. When the civil penalty assessed for the violation has been paid and the violation has been remedied to the satisfaction of the city (i.e., final inspections have occurred and final approvals have been granted), the city shall record a notice of compliance. The owner shall be responsible for paying the cost of recording the notice of noncompliance and the notice of compliance before the notice of compliance is recorded.

1.12.120 Appeal.

A. Civil penalties and notices of violation may be appealed to the hearing examiner as governed by BMC 20.32. The appeal of a notice of violation may contest that a violation occurred and/or the corrective action ordered. Failure to appeal the notice of violation waives the right to contest that a violation occurred or the corrective action ordered during an appeal of the civil penalty.

B. The hearing examiner shall conduct a hearing consistent with Chapter 2.35 Hearing Examiner BMC and shall:

1. Prepare findings regarding whether a preponderance of evidence shows that the violation occurred and the required corrective action is reasonable;

2. Accordingly affirm, vacate, or modify the particulars of the notice of violation; and

3. Affirm, vacate, or modify the assessment of civil penalties. The hearing examiner may reduce civil penalties based on the following considerations:

- a. Whether the violation was a first violation;

- b. Whether the violator showed due diligence in correcting the violation;

- c. Whether the penalty is more than necessary to:

- i. Neutralize any profit enjoyed by the violator as a result of the violation;

- ii. Make the public whole for environmental or other damages suffered as a result of the violation;

- iii. Recompense the city for the costs of enforcement; and
- iv. Other relevant factors.

d. Whether the violator had limited control and/or knowledge of the violation.

C. Any appeal of the hearing examiner's determination must be filed with superior court pursuant to Chapter 36.70C RCW.

1.12.130 Compliance.

Once the property owner has addressed the violation identified in the notice of violation and requested an inspection by the code official to confirm that the violation has been addressed, the code official shall issue a letter to the property owner stating either that the violation has been addressed or what additional actions are required to address the violation. Once the code official determines that the violations have been resolved, the code official will issue a notice of compliance to the property owner consistent with the requirements of BMC 1.12.110(B)(3).

1.12.140 Collection.

A monetary penalty constitutes a personal obligation of the person to whom the notice of civil penalty is directed. Assessed penalties shall be paid to the city within 15 days from the date of service of the notice of civil penalty. The city may take all legal means to collect penalties.

1.12.150 Abatement by the city.

- A. The city may abate a violation, including any resulting environmental damage, if:
 - 1. The violation occurs on public right-of-way or city-owned land;
 - 2. A public safety emergency exists; or
 - 3. A competent authority authorizes such abatement.
- B. The costs of abatement shall be billed to the person responsible for the violation and/or the owner, lessor, or tenant of the premises, and shall become due and payable to the city within 15 days. The costs of abatement shall include direct and indirect personnel costs; attorney's fees; hauling, storage and disposal expenses; costs incurred hiring and supervising contractors; and other actual costs.
- C. To recoup abatement costs, the city may file a lien or tax lien as provided by law against the property on which the violation occurred.
- D. If an illegal sign or portable structure is located on public property or presents an immediate hazard to the public safety, the code official may impound such sign or structure without notice. Recovery of said sign or structure shall be subject to payment of a fee of \$100.00 or the city's actual cost in removing and storing the sign or structure, whichever is higher. No cause of action shall be maintained against the city for damage to signs or structures impounded in accordance with this subsection.

1.12.160 Abatement – Vegetation and debris.

- A. As authorized in RCW 35.21.310, the city may order a property owner to remove all vegetation growing or which has grown and died and/or debris which is a fire hazard or a menace to public health, safety or welfare.
- B. The notice shall be issued by a resolution adopted by the city council after not less than five days' notice to the owner, which shall describe the property involved and the hazardous condition, and require the owner to remove the vegetation and/or debris.
- C. If the owner does not comply with the notice of abatement within 90 days, the city may cause the vegetation and/or debris to be removed and the cost incurred by the city shall become a charge against the owner of the property and a lien against the property pursuant to RCW 35.21.310.

1.12.170 Other recourse.

In the event of a violation, the city may also:

- A. Revoke, place further conditions on, or suspend processing of permits pertaining to the violator or the premises on which the violation occurred;
- B. Deny utility extensions to the premises;
- C. Revoke or withhold the violator's business license; or
- D. Pursue any other recourse available under law.

Section 3: A new Section 16.06.050 is hereby added to the Buckley Municipal Code to provide as follows:

16.06.050 Amendments to International Property Maintenance Code.

The International Property Maintenance Code is amended as follows:

- A. All references in the IPMC to "code official" are amended to read as "Public Officer."
- B. 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 are within the City of Buckley, dwellings which are unfit for human habitation and buildings, structures, and premises or portions thereof which are unfit 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 this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

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

104.1 Authority of Public Officer.

The Public Officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter. 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; and (c) to investigate the dwelling and other property conditions and to enter upon premises for the purpose of making examinations when the Public officer has reasonable ground for believing they are unfit for human habitation, or for other use, 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 Public Officer 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.

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

E. 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 Public Officer finds that it is dangerous or unfit for human habitation or other use, he shall cause 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 Pierce County Auditor, and shall post in a conspicuous place on such property, a complaint stating in what respects such dwelling, building, structure, or premises is unfit for human habitation or other use. If the whereabouts of any of such persons is unknown and the

same cannot be ascertained by the Public Officer in the exercise of reasonable diligence, and the Public Officer makes an affidavit 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 building 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 Public Officer, 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 Public Officer. 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.

F. Section 107.2, Method of service, is replaced as follows:

107.2 Findings and Order.

A. If, after the required hearing, the Public Officer determines that the dwelling is dangerous or unfit for human habitation, or building or structure or premises is unfit 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 Public Officer 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 Public Officer may rely upon such cost estimating publication or method the Building Official deems appropriate. The determination of the Public Officer shall be subject to appeal to the hearing examiner as governed by Section 111, except that the appeal deadline shall be 14 calendar days instead of 30 days.

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

In enforcement of this section, the public officer 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.

H. 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 Public Officer, the owner or any party in interest may file an appeal with the City Clerk for a hearing before the Hearing Examiner as governed by Chapter 20.32 BMC. All matters under this Chapter 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 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 Public Officer.

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

I. 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 incident.

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

K. 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 Public Officer may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated and closed, removed, or demolished.

In the enforcement of this section, the Public Officer is authorized to enter the structure and/or premises as authorized by law 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.

L. 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 Public Officer 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 Public Officer, after deducting the costs incident thereto.

M. 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 Public Officer, 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 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 Public Officer, 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.

N. Section 202, Definitions, add "Public Officer."

"Public Officer" shall mean any officer who is in charge of any department or branch of the government of the city relating to health, fire, building regulation, or other activities concerning dwellings, buildings, structures, or premises in the municipality or county.

Section 4. BMC 16.06.004 is amended as follows:

Section 101 of Chapter 1 of the 2018 International Building Code is hereby amended to read:

101.4.4 Property maintenance. The provisions of the Uniform Housing Code, Chapters 10, 11, 14 and 15, as well as the International Property Maintenance Code, shall apply to existing residential structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

Section 5. BMC Section 2.35.020 is hereby amended to read as follows:

(1) The hearing examiner is responsible for conducting hearings on and adjudicating quasi-judicial cases involving a variety of complex land use and regulatory compliance issues, code enforcement appeals, and other issues which the city council may designate to the hearing examiner by ordinance. The hearing examiner shall issue decisions or recommendations based on relevant ordinances, regulations, policies, statutes, and other authorities.

Section 5. BMC 9.10.290 is hereby amended to read as follows:

(1) Any of the following violations of this chapter shall be a misdemeanor punishable upon conviction in accordance with Chapter 1.04 BMC and the laws of the state of Washington:

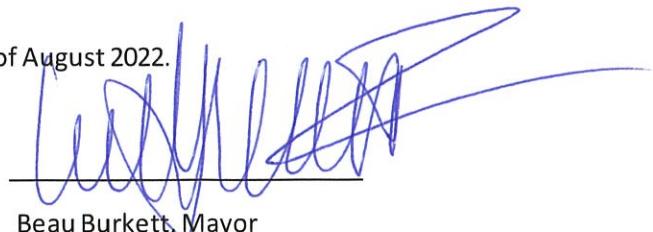
- (a) BMC 9.10.230 (exotic animals);
- (b) BMC 9.10.250 (cruelty);
- (c) BMC 9.10.260 (dangerous dogs).

(2) Any violation of any other provision of this title shall be an infraction as governed by the IRJ for a monetary penalty of \$73.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication.

Introduced, passed, and approved this 9th day of August 2022.



Beau Burkett, Mayor

Attest:



Treva Percival, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

PUBLISHED: August 17, 2022

EFFECTIVE: August 22, 2022