

ORDINANCE NO. 3325

AN ORDINANCE OF THE CITY OF LONGVIEW, WASHINGTON AMENDING LMC 16.32.235 THROUGH 16.32.290 WITH REGARD TO SUBSTANDARD BUILDINGS AND ADOPTING ABATEMENT PROCEDURES CONSISTENT WITH RCW 35.80 AND ADDING APPLICABLE DEFINITIONS TO LMC16.32.

WHEREAS, the City Council finds that there are within the City of Longview, 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.

WHEREAS, 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.

WHEREAS, 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.

NOW THEREFORE, The City Council of the City of Longview do ordain as follows:

Section 1. The following Title page including chapter list of Title 16.32, of the Longview Municipal Code is hereby amended to read as follows; provided manifest and numbering errors shall be corrected prior to publication:

Chapter 16.32
UNFIT DWELLINGS STRUCTURES

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Section 2. That the following provisions of Chapter 16.32 of the Longview Municipal Code shall be, and are hereby amended to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

I. General Provisions

16.32.005 Purpose.

The purpose of this chapter is to provide minimum requirements for the protection of life, limb, health, property and welfare of the general public as related to the occupancy of buildings and to establish minimum standards for the occupancy of buildings. (Ord. 1131 § 1, 1962).

16.32.010 Application.

The provisions of this chapter shall apply to all buildings or portions thereof used or designed or intended to be used for human habitation or for any other purpose. (Ord. 1131 § 1, 1962).

16.32.015 Existing buildings – Continuance permitted.

Buildings legally in existence at the time of the passage of the ordinance codified in this chapter may, at the owner's discretion, have their use continued; provided such use is not dangerous to the life, limb, health, property, safety or welfare of the public or the occupants thereof. (Ord. 1131 § 1, 1962).

16.32.020 Future construction to comply with chapter.

All buildings or structures hereafter constructed, erected, altered, moved, demolished, repaired or added to, shall comply with the provisions of this chapter and with the provisions of the building code of the city and amendments thereto. (Ord. 1131 § 1, 1962).

16.32.025 Remedies provided herein not exclusive.

(1) Nothing in this chapter shall be construed to abrogate or impair the power of the courts or of any department of the city to enforce any provisions of law, or its ordinances, nor to prevent or punish violations thereof; and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law or ordinance.

(2) Nothing in this chapter shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (Ord. 1131 § 1, 1962).

II. Administration

16.32.030 Authority.

The building official is authorized and directed to administer and enforce the provisions of this chapter. (Ord. 1131 § 1, 1962).

16.32.035 Assistance from other city departments.

When necessary and upon request, the building official shall have the cooperation and assistance of all city departments in enforcing the provisions of this chapter. (Ord. 1131 § 1, 1962).

16.32.040 Administrative liability.

(1) No officer, agent or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter.

(2) Any suit brought against any officer, agent or employee of the city as the result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein. (Ord. 1131 § 1, 1962).

III. Definitions

16.32.045 Generally.

(1) The definitions in LMC 16.32.050 through 16.32.230 are provided for the sole purpose of proper interpretation and administration of this chapter.

(2) Words used in the singular include the plural and words used in the plural include the singular. Words used in the masculine gender include the feminine gender and words used in the feminine gender include the masculine gender.

(3) Definitions used but not specifically defined in this chapter shall have the meaning defined in Chapter 4, Volume I, of the Uniform Building Code. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.046 Abate

"Abate" shall mean to put an end to, or otherwise diminish the intensity of, any condition causing a structure to be dangerous or unfit.

16.32.047 Abandoned or Apparently Abandoned

"Abandoned" or "Apparently Abandoned" shall mean any structure or premises that is so neglected, or other characteristics exist, such that it appears to be vacant and not cared for by any owner, occupant, or other party.

16.32.050 Apartment.

"Apartment" means a dwelling unit in an apartment house as defined in this chapter. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.055 Apartment house.

"Apartment house" means any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other in dwelling units as defined in this chapter. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.060 Approved.

"Approved" as applied to a material, device, condition or mode of construction or installation means approved by the building official under the provisions of this chapter or recommendations of nationally recognized technical organizations or laboratories such as the Underwriters Laboratories, Inc., the U.S. Bureau of Standards, the National Board of Fire Underwriters, the American Standards Assn., Inc., or the American Gas Association Laboratories. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.063 Area.

"Area," for the sole purpose of defining this term in LMC 16.32.067 and 16.32.197, shall mean a section of the city of Longview as identified by resolution of the city council of the city of Longview as needing revitalization. (Ord. 3042 § 1, 2008).

16.32.065 Basement.

"Basement" means that portion of a building between floor and ceiling, which is partly below and partly above grade (as defined in this chapter), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. (See definition of "Story," LMC 16.32.200). (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.067 Blighted area.

"Blighted area" shall mean 25 percent of an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of building or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate uses of land or buildings; existence of overcrowding of buildings or structures; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; existence of hazardous soils, substances, or materials; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; existence of persistent and high levels of unemployment or poverty within the area; or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime; substantially impairs or arrests the sound growth of the municipality or its environs, or retards the provision of housing accommodations; constitutes an economic or social liability; and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, or morals in its present condition and use. (Ord. 3042 § 1, 2008).

16.32.070 Boardinghouse.

"Boardinghouse" means a lodginghouse in which meals are provided. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.075 Building.

"Building" means any structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind, including all sanitary sewer lines connected thereto and not owned by the city. (Ord. 2265 § 1, 1986; Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.080 Building code.

"Building code" means the building code of the city and all amendments thereto. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.085 Building official.

"Building official" means the building official (building inspector or superintendent) of the city or his duly authorized assistant. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.090 Ceiling height.

“Ceiling height” means the clear vertical distance from the finished floor to the finished ceiling. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.095 Cellar.

“Cellar” means that portion of a building between the floor and ceiling which is wholly or partly below grade (as defined in this chapter) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. (See definition of “Story,” LMC 16.32.200). (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.100 Commission.

“Commission” means the building appeals commission as herein provided in this chapter. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.105 Court.

“Court” means an open, unoccupied space, bounded on two or more sides by the walls of a building. An inner court is a court entirely within the exterior walls of a building or buildings. All other courts are outer courts. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.110 Dormitory.

“Dormitory” means a room occupied by more than two guests. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.115 Dwelling.

“Dwelling” means any building or any portion thereof which is not an “apartment house,” a “lodginghouse,” or a “hotel” as defined in this chapter, which contains one or two “dwelling units” or “guest rooms,” used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.120 Dwelling unit.

“Dwelling unit” means two or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.125 Efficiency living unit.

“Efficiency living unit” means any room having cooking facilities used for combined living, dining, and sleeping purposes and meeting the requirements of LMC 16.32.355. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.130 Exit.

“Exit” means a continuous and unobstructed means of egress to a public way, and shall include intervening doorways, corridors, ramps, stairways, smoke-proof enclosures, horizontal exits, exterior courts, and yards. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.135 Family.

“Family” means an individual or two or more persons related by blood or marriage, or a group of not more than five persons, (excluding servants) who need not be related by blood or marriage living together in a dwelling unit. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.140 Grade.

“Grade” (ground level), means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the aboveground level shall be measured at the sidewalk. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.145 Guest.

“Guest” means any person hiring or occupying a room for living or sleeping purposes. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.150 Guest room.

“Guest room” means any room or rooms used, or intended to be used by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory is a guest room. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.155 Habitable room.

“Habitable room” means any room meeting the requirements of this chapter for sleeping, living, cooking or eating purposes excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.160 Hotel.

“Hotel” means any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor, or otherwise. It does not

include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home or other institution in which human beings are housed and detained under legal restraint. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.165 Hot water.

“Hot water” means water at a temperature of not less than 120 degrees Fahrenheit. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.170 Kitchen.

“Kitchen” means a room used, or designed to be used, for the preparation of food. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.175 Lodginghouse.

“Lodginghouse” means any building or portion thereof, containing not more than five guest rooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A lodginghouse shall comply with all requirements of this chapter for dwellings. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.180 Occupied space.

“Occupied space” means the total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane excluding permitted projections as allowed by LMC Title 19. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.185 Owner.

“Owner” includes the owner or owners of the freehold of the premises or any lesser estate therein, a mortgagee or vendee in possession, an assignee for rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a building. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

“Owner” shall also mean the owner or taxpayer shown in the records of the Cowlitz County Assessor-Treasurer, recorded with the Cowlitz County Auditor, or as otherwise known to the City of Longview, and shall include any manager or other representative of the owner, or other person with responsibility for or control over the structure or premises.

16.32.186 Person

“Person” shall mean and include any individual, business, corporation, organization, or entity.

16.32.187 Public Officer

"Public Officer" shall mean and include the Building Official or his designees.

16.32.190 Rooming house.

For the definition of "rooming house," see lodginghouse, LMC 16.32.175. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.195 Service room.

"Service room" means any room used for storage, bath or utility purposes, and not included in the definition of habitable rooms. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.197 Slum.

"Slum" shall mean 25 percent of any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals. (Ord. 3042 § 1, 2008).

16.32.200 Story.

"Story" means that portion of the building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade such basement or cellar shall be considered a story. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.201 Structure

"Structure" shall mean or include that which is built or constructed or a portion thereof.

16.32.205 Substandard building.

"Substandard building" means any building or portion thereof or the premises on which the same is located, in which there exists any of the conditions listed in LMC 16.32.465 through 16.32.530 to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.210 Superficial floor area.

“Superficial floor area” means the net floor area within the enclosing walls of the room in which the ceiling height is not less than five feet, excluding equipment such as wardrobes, cabinets, kitchen units, or fixtures. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.215 Used.

“Used” means used or designed or intended to be used. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.220 Vent shaft.

“Vent shaft” means a court used only to ventilate or light a water closet, bath, toilet, or utility room or other service room. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.225 Window.

“Window” means a glazed opening, including glazed doors, which open upon a yard, court, or recess from a court, or a vent shaft open and unobstructed to the sky. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

16.32.230 Yard.

“Yard” means an open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this chapter, on the lot which a building is situated. (Ord. 1391 § 1, 1968; Ord. 1131 § 1, 1962).

~~IV. Substandard Buildings~~

~~16.32.235 Declared nuisance — Abatement required.~~

~~All buildings or portions thereof which are determined to be substandard as defined in this chapter are nuisances and shall be abated by repair, rehabilitation, vacation, demolition or removal, as hereinafter provided. (Ord. 1131 § 1, 1962).~~

~~16.32.240 Standards.~~

~~The following standards shall be followed by the building official and the building appeals commission in ordering repair, rehabilitation, vacation, demolition or removal of a substandard building:~~

~~(1) If the substandard building can be reasonably repaired or rehabilitated so that it will no longer be in violation of the terms of this chapter, it shall be ordered repaired or rehabilitated by~~

~~the building official or the commission; provided, in the event a final order of the building official or commission is not complied with, the building official is authorized to order the building vacated and closed until such repair or rehabilitation is accomplished;~~

~~(2) If the substandard building is in such condition as to make it imminently dangerous to health, safety, morals or general welfare of its occupants or the public, it shall be ordered to be vacated and closed by the building official or the commission;~~

~~(3) If the substandard building cannot be repaired or rehabilitated at a cost equal to or less than four times its assessed value as shown by the then most recent records of the county assessor's office, so that it will no longer be in violation of the terms of this chapter, it shall be demolished. (Ord. 1131 § 1, 1962).~~

V. Inspections — Appeals

~~16.32.245 Duties of the building official.~~

~~The building official shall cause:~~

~~(1) The inspection of all buildings, or portions thereof, subject to the application of this chapter, for the purpose of determining whether any conditions exist which render such buildings substandard within the terms of LMC 16.32.465 through 16.32.530;~~

~~(2) The holding of a hearing at the time and place specified in the complaint of the building official, at which all parties in interest shall be given the right to appear in person or otherwise, and to present evidence and, if after said hearing he shall determine that any building or portion thereof is in fact substandard, he shall reduce to writing his findings of fact in support of such determination, and he shall issue and cause to be served upon the owner and any party in interest, in the manner provided herein for serving of the complaint, an order which requires the owner or party in interest within a reasonable time specified in the order to repair, rehabilitate, alter, or improve such building to render it fit for human habitation or other appropriate use or to vacate and close the building if such course of action is deemed proper, or require the owner or party in interest within the time specified in the order to remove or demolish such building and if no appeal is filed in the manner hereinafter provided, he shall record a copy of such order with the county auditor;~~

~~(3) The presentation, at all hearings conducted by the commission, of evidence relevant to the condition of the substandard building, or other evidence that may be considered relevant by the commission. (Ord. 1131 § 1, 1962).~~

~~16.32.250 Complaint by the building official.~~

~~(1) The complaint issued by the building official alleging any building to be substandard within the standards set forth in LMC 16.32.465 through 16.32.530 must be in writing and shall be sent either by registered mail or served personally upon all persons having any interest in and to said property, as shown by the records of the county auditor; provided, that if the whereabouts of such persons are unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence, the building official shall make an affidavit to that effect and then said complaint shall be served by publishing the same once each week for two consecutive weeks in a newspaper published in the city. The building official shall cause to be posted upon such property, in a conspicuous place, a copy of the complaint and shall file a copy of the complaint with the auditor of Cowlitz County.~~

~~(2) Said complaint shall contain among other things the following information:~~

~~(a) The name of the owner and any other persons interested, as provided hereinabove;~~

~~(b) The street address and legal description of the property on which said building is located;~~

~~(c) The complaint shall state in what respects the building or portion thereof is substandard, as defined in LMC 16.32.465 through 16.32.530;~~

~~(d) A statement of notice that a hearing will be held before the building official, stating the time and place which shall not be less than 10 days nor more than 30 days after the serving of such complaint, or in the event of publication, not less than 15 days nor more than 30 days from the date of first publication, and that all parties in interest shall be given the opportunity to file an answer to the complaint, to appear in person or otherwise and to give evidence at the time and place fixed for said hearing. (Ord. 1131 § 1, 1962).~~

~~16.32.255 Posted complaints.~~

~~No person shall remove, deface or tamper with any complaint posted pursuant to this chapter. (Ord. 1131 § 1, 1962).~~

~~16.32.260 Appeals to commission.~~

~~The owner, within 30 days from the date of service of the order of the building official, shall have the right to appeal to the commission as herein provided. (Ord. 1131 § 1, 1962).~~

~~16.32.265 Building appeals commission.~~

~~The building appeals commission referred to in this chapter shall be the building code board of appeals provided for and organized under the provisions of the building code and Chapter 16.04 LMC. (Ord. 1131 § 1, 1962).~~

~~16.32.270 Hearings.~~

~~The building official or his duly authorized representative shall attend all hearings of the commission and shall be given notice of all special meetings thereof. All hearings of the commission shall be open to the public. Records and minutes shall be kept of all proceedings of the commission and copies of the minutes shall be furnished to the city council. (Ord. 1131 § 1, 1962).~~

~~16.32.275 Duties of the building appeals commission.~~

~~The building appeals commission shall:~~

~~(1) Upon receipt of notice of appeal filed with the commission by the owner or party in interest, entertain such appeal and conduct a hearing thereof as provided in subsection (2) of this section, or upon receipt of a request in writing from the building official to review his order, entertain such request and conduct a hearing. The commission shall, prior to said hearing, cause written notice fixing the time and place of hearing to be given to all parties in interest. Said hearing shall be held not less than 10 days after written notice has been given to all parties in interest;~~

~~(2) At the hearing, admit such evidence as may be presented by any complainant, by the city, through its designated officials, by the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the records of the auditor, in respect to such substandard building;~~

~~(3) Make written findings of fact and prepare and issue an order in the same manner as provided for in LMC 16.32.245(2) within 60 days from the date of the filing of the notice of appeal from evidence offered pursuant to subsection (2) of this section. If the commission finds that such building is substandard within the provisions of this chapter, it shall record a copy of its order with the county auditor. (Ord. 1131 § 1, 1962).~~

~~16.32.280 Appeal to superior court.~~

~~Any person affected by an order issued by the commission pursuant to this chapter may, within 30 days after service of the order, petition the superior court of Cowlitz County, Washington, for an injunction restraining the building official or members of the commission from carrying out the provisions of the order. In all such proceedings the court is authorized to affirm, reverse, or modify the order of the commission and such trials will be heard de novo. (Ord. 1131 § 1, 1962).~~

~~16.32.285 Lien for cost.~~

~~(1) If the owner or party in interest fails to comply with a final order to repair, alter, improve, vacate, close, remove or demolish the building or structure, the building official or commission may direct, or cause such building or structure to be repaired, altered, improved, vacated and closed, removed or demolished.~~

~~(2) The amount of the cost of such repairs, alterations 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 is previously paid. The county treasurer, upon certification to him by the treasurer of the municipality of the assessment amount being due and owing, 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 the same interest (not to exceed six percent) and penalties and when collected shall be deposited to the credit of the general fund of the municipality; provided, that if the total assessment due and owing exceeds \$25.00 the local governing body shall, upon written request of the owner or party in interest, divide the amount due into 10 equal annual installments, subject to earlier payment at the option of owner or party in interest. If the dwelling, building or structure is removed or demolished, the building official or commission shall, if possible, sell the materials of such dwelling, building, or structure and shall credit the proceeds of such sale 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 building official or commission, after deducting the cost incident thereto. The owner shall be given a reasonable time, specified in the order of the building official or commission, to remove personal property contained in said dwelling, building, or structure. (Ord. 1131 § 1, 1962).~~

~~16.32.286 Alternate method for payment of repairs, alterations and improvements.~~

~~If the substandard condition is one arising by reason of inadequate sanitation under LMC 16.32.470(16), and if the estimated cost of repairs, alterations or improvements thereof is in excess of \$500.00, the owner or party in interest may apply for financial assistance from the city in accordance with the provisions contained in resolutions of the city providing therefor. In the event such application is made and accepted by the city, the provisions of LMC 16.32.285 shall be inapplicable. (Ord. 2265 § 4, 1986).~~

~~16.32.290 Findings of fact to be made available.~~

~~A copy of the findings of fact of either the building official or of the commission shall be made available to any party in interest or person affected thereby upon demand. (Ord. 1131 § 1, 1962).~~

IV. Substandard Dwellings

16.32.235 - Purpose- Findings

Pursuant to chapter 35.80 of the Revised Code of Washington (RCW), the City Council finds that there are within the City of Longview, 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.

16.32.240 - Reserved

16.32.245 - 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

16.32.250 - Criteria for Unfit or Dangerous Structures

The Public Officer may determine that a structure is dangerous or unfit for human habitation or other use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety, or welfare of the occupants of such structure, the occupants of neighboring structures, or other residents of the City. Such conditions may include the following, without limitations:

1. Any door, aisle, passageway, stairway, or other means of exit is too narrow or small, or other factors or conditions exist, so as to be unsafe or to hinder safe exit in case of panic, fire, or other emergency.
2. The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or other factors or conditions exist, so as to be unsafe or to not provide safe and adequate means of exit in case of panic, fire, or other emergency.
3. 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, chapter 16.02 LMC for new buildings of similar structure, purpose, or location.
4. Any portion has been damaged by fire, earthquake, wind, flood, deterioration, neglect, or any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such damage or deterioration and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.
5. Any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons, damage property, or render other portions of the structure or premises unsafe or unfit to occupy.
6. Any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place 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. Any portion thereof is wracked, warped, buckled, settled, or other conditions exist, such that walls or other structural portions have materially less resistance to wind, earthquakes, snow, or other loads, than is required in the case of similar new construction.
8. 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. For any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used or is designed and intended to be used.
10. 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 within the middle one-third of the base.
11. The building or structure, exclusive of the foundation, 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. Any structure or premises that is damaged by fire, wind, earthquake, flood, or any other cause, has become dilapidated, deteriorated, or neglected, or is abandoned or apparently abandoned and not thoroughly and adequately secured against unauthorized entry, so as to (i) be an attractive nuisance to children; (ii) attract and/or provide harborage for vagrants, criminals, or immoral persons; or (iii) enable persons to resort thereto and commit unlawful, immoral, or dangerous acts.
13. 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, chapter 16.02 LMC or of any other law of this State or ordinance of the City relating to the condition, location, or structure of buildings.
14. 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

for newly-constructed buildings of like area, height, and occupancy in the same location.

15. Any structure or premises which, because of: neglect, dilapidation, decay, damage, or faulty construction; inadequate light, air, or sanitation facilities; infestation of rodents, roaches, wood-destroying organisms, or other vectors of disease; filth or accumulation of garbage; or for any other reason, is unsanitary, unfit for human habitation or occupancy, or in such a condition that is likely to cause sickness or disease.

16. A structure or premises, because of obsolescence, deterioration, damage, lack of sufficient or proper fire-resistive construction or fire-protection systems, faulty electric wiring or components, gas connections, or mechanical systems, or other cause, is determined by the Fire Marshal to be a fire hazard.

17. Equipment or systems which are unsafe due to damage, deterioration, faulty or inadequate maintenance or construction, or any other reason.

18. Any portion of a structure remaining on a site after the demolition or destruction of the structure or any structure abandoned so as to constitute such structure or portion thereof an attractive nuisance or hazard to the public.

19. Any building or structure in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

20. Any other condition the Building Official or other official or expert can articulate that renders the structure unsafe or unfit for habitation or occupancy.

16.32.255 - 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 Cowlitz 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 Cowlitz 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 Cowlitz 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.

16.32.260 - 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 LMC 16.32.255, 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 LMC 16.32.250 above; 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 Cowlitz 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 Cowlitz 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.

16.32.265 - Appeals

A. Within thirty days from the date of service upon the owner and posting of the decision issued under LMC 16.32.260, the owner or any party in interest may file an appeal with the City Clerk for a hearing before the Hearing Examiner. The rules for hearings before the Hearing Examiner shall be those specified in Chapter 1.36 LMC. In addition to the provisions of Chapter 1.36 LMC, 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.

B. Absent an injunction issued by a court of competent jurisdiction, in accordance with RCW 35.80.030(2) as now or hereinafter amended, within thirty days after posting and service of the Hearing Examiner's Order, the decision of the Hearing Examiner shall be final.

16.32.267 - Enforcement of Order

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 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.

16.32.270 - Sale or Disposal of Materials and Contents

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.

16.32.275 - Recovery of Expenses

A. 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.

B. 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 Longview 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.

16.32.280 - Demolition of Dangerous Building

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 value and 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.

16.32.285 - Permits, Regulations and Workmanship

All repairs, improvements, maintenance, or other work, performed in relation to any enforcement under this code shall be performed and completed in a workmanlike manner and in compliance with all permitting and other requirements of all applicable codes and regulations. The owner shall be responsible for identifying and complying with all applicable codes and regulations.

16.32.287 - Remedies Not Exclusive

A. This section does not abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

B. This section does not impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

16.32.290 - Public Nuisance

Any structure or premises subject to complaint or order under this chapter is also a public nuisance.

Section 2. Those portions of LMC 16.32 repealed or amended by this ordinance shall remain in force and effect until the effective date of this ordinance.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance and the same shall remain in full force and effect. The City of Longview hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. That nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. That the City of Longview City Clerk is hereby ordered and directed to cause this Ordinance to be published.

Section 6. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7. This Ordinance shall be in full force and effect from and after thirty (30) days from the date of its passage and publication as provided by law.

Passed by the City Council this ____ day of _____, 2016.

Approved by the Mayor this ____ day of _____, 2016.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

James McNamara
City Attorney

Published: _____