

Lloyd Carnahan- Mayor  
Stephanie Hoegh- City Clerk-Treasurer  
Cristy McGee-Deputy Clerk-Treasurer  
Bob Spink- City Engineer  
Lee Kerr, City Attorney

Lisa Stade-Councilwoman  
Lynn Johnson- Councilman  
Bob Bruce- Councilman  
Lorna Deckert- Councilwoman  
Honda Johnson - Councilwoman

## REGULAR CITY COUNCIL MEETING

August 5, 2008

### A G E N D A

Council Chamber  
7:00 P.M.

**TURN OFF ALL CELL PHONES & PAGERS-EMERGENCY PERSONNEL USE SILENT ALERT**

- A. CALL TO ORDER
- B. ROLL CALL
- C. READING AND APPROVAL OF MINUTES FOR REGULAR MEETING ON JULY 15, 2008
- D. OPENING REMARKS, "HOUSEKEEPING" ITEMS, EXECUTIVE SESSION REQUESTS, ETC.
- E. APPROVAL OF AGENDA  
(Only essential changes not requiring preparation, legal & staff review; public notice, or action may be added).

**VISITOR COMMENTS-** for not-on-agenda items- comments simply listened to and noted usually without response. Council will not take action on an item not already on agenda without time to research, read, and receive staff report. Items may be added on future agenda, but not current agenda. Out-of-order comments restricted (purpose of Council meeting is ONLY for Council to conduct Business). If you wish to speak on an item on the agenda, or not on the agenda, complete the Citizen Comment form, and pass it to the City Clerk to be considered by Chair. Please do not speak or make remarks unless recognized by the Chair, then if you are called, come forward to microphone, & give name and address for minutes recorder. Please read other Council rules on backside of Agenda or on Citizen Comment Form. Chamber over-flow will be moved only to City Community Center.

#### F. REGULAR REPORTS:

- (1) EDC Report
- (2) Staff Reports
  - Code Enforcement Report
  - Mold Issue at City Hall
- (3) Engineer Report
- (4) Council Committee Report

#### G. ITEMS FOR APPROVAL:

- 1. Resolution #2008-15 – Lien Policy/Procedure
- 2. Resolution #2008-16– Auth. Mayor to sign Port of Kennewick Agreement
- 7:45 PM** 3. Public Hearing – Sanlyn- 7:45
- 8:00 PM** 4. Public Hearing – 6 year street plan
- 5. Resolution #2008-17 – Auth. Mayor to sign KID Land Agreement
- 6. Resolution #2008-18 – Benton Irrigation Agreement Re: Ki-Be Road
- 7. Resolution #2008-19 – Benton County Affordable Interlocal Agreement
- 8. VOUCHERS

#### H. ITEMS FOR DISCUSSION:

- 1. Aquatic Park Conceptual Drawing – B. Spink
- 2. Metropolitan Park District Update – L. Kerr
- 3. Water/Sewer Billing Changes- S. Hoegh
- 4. Animal Control Ordinance Changes – L. Kerr

#### I. GENERAL COUNCIL COMMENTS

#### J. ADJOURNMENT -Chair

**City of Benton City  
Regular Council Meeting Minutes  
August 5, 2008**

**CALL TO ORDER –** Mayor Carnahan called the regular Council meeting to order at 7:00 p.m.

**ROLL CALL – (0/0/000)** Council Members Present –

**Bob Bruce  
Honda Johnson  
Lisa Stade  
Lynn Johnson**

City Staff Not Present -

**Lorna Deckert**

City Staff Present –

**Stephanie Hoegh, City Clerk/Treasurer**

Other Professionals Present –

**Bob Spink, City Engineer  
Lee Kerr, City Attorney**

**PLEDGE OF ALLEGIANCE TO THE FLAG –** Local Boy Scout Troop presented Colors and led the Pledge of Allegiance. (1/4/315)

**READING AND APPROVAL OF MINUTES FOR REGULAR MEETING ON JULY 15<sup>th</sup>, 2008 –**  
(8/3/573)

**Councilwoman Deckert:** Mr. Mayor, I would move to approve the minutes of the Regular Council Meeting of July 15th, 2008.

**Councilman Johnson:** Second.

**MOTION #1-** C. L. Deckert moved and C. L. Johnson seconded to approve the minutes of the Regular Council Meeting of July 15th, 2008.

**VOICE VOTE #1-** C. L. Deckert, C. L. Johnson, C. H. Johnson, C. B. Bruce, C. L. Stade  
ALL YEAS. Motion carried.

**OPENING REMARKS, “HOUSEKEEPING” ITEMS, EXECUTIVE SESSION REQUESTS, ETC. –**  
None (24/4/191)

**APPROVAL OF AGENDA – (44/4/730)**

**Councilman Johnson:** Mr. Mayor, I move to approve the Agenda as amended.

**Councilwoman Deckert:** Second.

**MOTION #2-** C. L. Johnson moved and C. L. Deckert seconded to approve the Agenda as amended.

**VOICE VOTE #2- C. L. Deckert, C. L. Johnson, C. L. Stade, C. H. Johnson, C. B. Bruce**  
**ALL YEAS. Motion carried.**

**1. VISITOR COMMENTS – (105/3/531)**

**Heather Duncan, Secretary/Treasurer**

- Recycle Bins – removed from Ki-Be parking lot
- Money from recycling goes to youth
- On Marquee/notices up at Market
- Request City find alternative placement temporarily

**REGULAR REPORTS -**

**1. EDC REPORT – (207/2/000)**

**Lt. Brian White, Patrol Commander**

**2. STAFF REPORTS – (247/4/763) Code Enforcement Report.**

**3. ENGINEER REPORT – (254/1/315)**

**Bob Spink, City Engineer**

- Six year Street Plan (260/2/791)
- Schedule a Public Hearing on Aug. 5<sup>th</sup>

**Councilwoman Deckert:** Mr. Mayor, I move that we have a Public Hearing on the Six Year Street Plan at the next Council Meeting scheduled for August 5<sup>th</sup> at 7:30 p.m.

**Councilman Johnson:** I second the motion.

**MOTION #3- C. L. Deckert moved and C. L. Johnson seconded to approve scheduling a Public Hearing for the Six Year Street Plan for the City of Benton City, Washington at 7:30 p.m. on August 5<sup>th</sup>, 2008**

**VOICE VOTE #3- C. L. Deckert, C. L. Johnson, C. H. Johnson, C. B. Bruce, C. L. Stade**  
**ALL YEAS. Motion carried.**

**4. COUNCIL COMMITTEE REPORT – (637/4/376)**

**Councilwoman Stade – None**

**Councilwoman Deckert – None**

**Mayor Carnahan – Ben Franklin Council of Governments – new bridge**  
-One or two locations – Columbia River/Kennewick  
-Global Warming – Legislation acted upon

**Councilman Johnson – Ben Franklin Council of Governments**

**Councilman Bruce – None**

**Councilwoman Johnson – None**

**ITEMS FOR APPROVAL:**

**1. RESOLUTION #2008-15 – LIEN POLICY/PROCEDURE (678/3/315)**

**Councilwoman Deckert:** Mr. Mayor, I move for the approval of Resolution 2008-15, a resolution

**Councilman Johnson:** I'll second it.

**MOTION #4– C. L. Deckert moved and C. L. Johnson seconded for approval of Resolution 2008-15, a resolution**

**VOICE VOTE #4– C. L. Deckert, C. B. Bruce, C. L. Stade, C. L. Johnson, C. H. Johnson.  
ALL YEAS. Motion carries.**

**2. RESOLUTION #2008-16 – AUTHORIZING MAYOR TO SIGN PORT OF KENNEWICK AGREEMENT (925/1/188)**

**BENTON CITY ADMINISTRATIVE CODE**

**Councilman Johnson:** Mr. Mayor, I would move for approval Resolution 2008-16

**Councilman Bruce:** I second it.

**MOTION #5– C. L. Johnson moved and C. B. Bruce seconded for approval Resolution 2008-14, a resolution of the City of Benton City Washington,**

**VOICE VOTE #5– C. L. Deckert, C. B. Bruce, C. L. Stade, C. L. Johnson, C. H. Johnson.  
ALL YEAS. Motion carries.**

**3. PUBLIC HEARING – SANLYN (7:45 P.M.) (1292/3/616)**

**Councilwoman Deckert:** Mr. Mayor, I would move for the approval of Resolution 2008-17, an ordinance of the City of Benton City, Washington,

**Councilman Johnson:** Second.

**MOTION #6– C. L. Deckert moved and C. L. Johnson seconded for approval of Resolution 2008-17, an ordinance of the City of Benton City, Washington,**

**VOICE VOTE #6– C. L. Deckert, C. B. Bruce, C. L. Stade, C. L. Johnson, C. H. Johnson.  
ALL YEAS. Motion carries.**

**4. PUBLIC HEARING – SIX YEAR STREET PLAN (8:00 P.M.) ( )**

**5. RESOLUTION 2008-17 – AUTHORIZING MAYOR TO SIGN KID LAND AGREEMENT (889/1/402)**

**6. RESOLUTION #2008-18 – BENTON IRRIGATION AGREEMENT RE: KI-BE AGREEMENT ( )**

**Councilman Johnson:** Mr. Mayor, I move to approve Ordinance No. 837, an ordinance of the City of Benton City, Washington, creating a new chapter 3.14 “Lodging Excise Tax” which relates to a tax that

is imposed on the charge made for the furnishing of lodging or similar license to use real property on the Second Reading.

**Councilwoman Deckert:** I second.

**MOTION #7– C. L. Johnson moved and C. L. Deckert seconded to approve Ordinance No. 837, an ordinance of the City of Benton City, Washington, creating a new chapter 3.14 “Lodging Excise Tax” which relates to a tax that is imposed on the charge made for the furnishing of lodging or similar license to use real property on the Second Reading.**

**VOICE VOTE #7– C. L. Deckert, C. B. Bruce, C. L. Stade, C. L. Johnson, C. H. Johnson.**  
**ALL YEAS. Motion carries.**

## **7. RESOLUTION #2008-19 – BENTON COUNTY AFFORDABLE INTERLOCAL AGREEMENT ( )**

**Councilman Johnson:** Mr. Mayor, I move to approve Ordinance No. 837, an ordinance of the City of Benton City, Washington, creating a new chapter 3.14 “Lodging Excise Tax” which relates to a tax that is imposed on the charge made for the furnishing of lodging or similar license to use real property on the Second Reading.

**Councilwoman Deckert:** I second.

**MOTION #8– C. L. Johnson moved and C. L. Deckert seconded to approve Ordinance No. 837, an ordinance of the City of Benton City, Washington, creating a new chapter 3.14 “Lodging Excise Tax” which relates to a tax that is imposed on the charge made for the furnishing of lodging or similar license to use real property on the Second Reading.**

**VOICE VOTE #8– C. L. Deckert, C. B. Bruce, C. L. Stade, C. L. Johnson, C. H. Johnson.**  
**ALL YEAS. Motion carries.**

## **8. FIRST READING – ORDINANCE UPDATING FLOOD CODES ( )**

**Councilman Johnson:** Mr. Mayor, I move to approve Ordinance No. 837, an ordinance of the City of Benton City, Washington, creating a new chapter 3.14 “Lodging Excise Tax” which relates to a tax that is imposed on the charge made for the furnishing of lodging or similar license to use real property on the Second Reading.

**Councilwoman Deckert:** I second.

**MOTION #9– C. L. Johnson moved and C. L. Deckert seconded to approve Ordinance No. 837, an ordinance of the City of Benton City, Washington, creating a new chapter 3.14 “Lodging Excise Tax” which relates to a tax that is imposed on the charge made for the furnishing of lodging or similar license to use real property on the Second Reading.**

**VOICE VOTE #9– C. L. Deckert, C. B. Bruce, C. L. Stade, C. L. Johnson, C. H. Johnson.**  
**ALL YEAS. Motion carries.**

## **9. VOUCHERS (1312/1/166)**

**Councilman Johnson:** Mr. Mayor, I would move that we, the City Council of the City of Benton City, Washington, do hereby authorize payment of Voucher Check No. 21301 thru 21340 as listed in the amount of \$46,292.46 and Payroll Check No. 7866 thru 7902 as listed in the amount of \$46,096.41. These checks are approved for payment this 5<sup>th</sup> day of August, 2008.

**Councilwoman Deckert:** I will second that.

**MOTION #10**– C. L. Johnson moved and C. L. Deckert seconded the City Council of the City of Benton City, Washington, to hereby authorize payment of Voucher Check No. 21301 thru 21340 as listed in the amount of \$46,292.46 and Payroll Check No. 7866 thru 7902 as listed in the amount of \$46,096.41. These checks are approved for payment this 5th of August, 2008.

**ROLL CALL VOTE #10**– C. L. Johnson, C. L. Deckert, C. H. Johnson, C. B. Bruce, C. L. Stade.  
ALL YEAS. Motion carries.

**ITEMS FOR DISCUSSION:**

1. **AQUATIC PARK CONCEPTUAL DRAWING** – B. Spink (1363/3/419)
2. **METROPOLITAN PARK DISTRICT UPDATE** – Lee Kerr (1605/4/794)
3. **WATER/SEWER BILLING CHANGES** – Stephanie Hoegh (1673/1/108)
4. **ANIMAL CONTROL ORDINANCE CHANGES** – Lee Kerr (1731/4/304)
5. **MOLD ISSUE AT CITY HALL** (1890/1/805)

**GENERAL COUNCIL COMMENTS** – (2058/4/591)

**ADJOURNMENT** – Mayor Carnahan (2125/2/445)

**Councilman Johnson:** Mr. Mayor, I move to adjourn.

**Councilwoman Deckert:** Second.

**MOTION #14** – C. L. Johnson moved and C. L. Deckert seconded to adjourn the August 5th, 2008 Regular Council Meeting.

**VOICE VOTE #14** – C. L. Johnson, C. L. Deckert, C. H. Johnson, C. B. Bruce and C. L. Stade.  
ALL YEAS. Motion carried.

Meeting adjourned at 8:17 p.m. (2135/3/319)

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Lloyd Carnahan  
Mayor, City of Benton City

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Stephanie Hoegh

City Clerk-Treasurer

Date: \_\_\_\_\_

**RESOLUTION NO. 2008-15**

**A RESOLUTION OF THE CITY OF BENTON CITY,  
WASHINGTON, ADOPTING A POLICY RELATING TO  
LIENS AND LIEN FORECLOSURES**

**WHEREAS**, the City of Benton City has outstanding debt owed to the City; and

**WHEREAS**, the City of Benton City desires to develop a policy to secure payment for debts owed to the City; and

**WHEREAS**, pursuant to State law, the City is authorized to file liens and foreclose on liens for debts owed to the City relating to unpaid fines for civil infractions, past utility fees, or sewer fees; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON**, hereby resolves as follows:

**Section 1.** The policy for liens and lien foreclosures set forth in the document entitled "Liens and Lien Foreclosures", which is attached hereto as Exhibit A and incorporated hereinby this reference as set forth in full, is hereby adopted as an official policy.

**Section 2.** That the document entitled "Liens and Lien Foreclosures" replaces all previous City of Benton City's lien policies.

**ADOPTED** this 5 day of August, 2008, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 5 day of August, 2008.

Resolution 2008-15 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 5 day of August, 2008.

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Lloyd R. Carnahan  
*Mayor*

Attest:

Approved as to Form:

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Stephanie Hoegh  
*City Clerk/Treasurer*

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Leland B. Kerr  
*City Attorney*

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## **CITY OF BENTON CITY, WASHINGTON**

### **Liens and Lien Foreclosure**

A lien is a charge against real property as security for payment of some debt owed to the City. A municipality can obtain a lien on property for reimbursement of abatement costs, assessments and for violation of a municipal ordinance or non-payment of an obligation. In certain circumstances, this lien will allow a municipality to foreclose and sell the property to obtain payment of the debt secured by the lien. However, before a municipality can foreclose on a lien claim, this lien must be properly assessed, attached, and perfected. The following manual discusses the triggering events that must occur before a lien can be assessed on property, the method for attaching and perfecting a lien to the property, and steps taken to foreclose on such a lien. Additionally, this manual will also discuss municipal liens priority regarding general taxes and bankruptcy.

## I. ABATEMENT LIENS

### A. **Event that Triggers Assessment.**

Abatement liens are assessed against property when a property contains a code violation that causes a condition which constitutes an immediate or emergent threat to the public health, safety or welfare or to the environment which requires immediate action by the City. This condition is typically referred to as "Nuisance." The City then must take immediate action to remove this nuisance and thus removal is referred to as an "abatement." (BCMC 9.48.040).

### B. **Notice to Property Owner of Abatement.**

Once the City has removed the nuisance, it can begin the assessment process by sending notice to the property owner that a code violation has occurred which caused a nuisance and thus required immediate action by the City. This notice shall be sent out within a reasonable time after the abatement occurs. This notice should also contain the amount of fees and costs incurred in removing the nuisance.

Pursuant to BCMC 9.50.050, the notice shall contain the following information:

1. The name and address of the person responsible for the violation.
2. Street address or description sufficient for identification of the building, structure, premises, or land where the violation occurred or is occurring.
3. A description of the violation and reference to code provision being violated.
4. Date and time the correction occurred and require the abatement of the violation.
5. Date and time for appeal hearing before the Hearing Examiner, which must be at least ten (10) days from the date that the notice of the civil violation was issued.
6. A statement of costs and expenses that were incurred by the City.

### C. **Perfection and Attachment of Abatement Lien.**

If the property owner does not attend the appeal hearing or the Hearing Examiner finds that there is a violation and the abatement was necessary, the Hearing Examiner will then determine that the property owner is responsible for the code violation and the costs and fees incurred in abating the nuisance. The Hearing Examiner will then draft a notice of assessment and lien. (See Appendix A "Notice of Assessment and Lien.")

This Notice of Assessment and Lien is then filed with the Benton County Auditor, pursuant to RCW 35.80.030 (1)(h). The City then needs to send a certification of the abatement lien to the Benton County Treasurer to ensure that the lien is collected as part of the general taxes. (See Appendix B "Certification of Assessment Form.")

By filing these Certification of Abatement liens with the County Treasurer, the abatement lien will now be collected as part of the general taxes for the county which are assessed and collected twice per year.

**D. Foreclosure of Abatement Lien.**

If the property owner then fails to either pay the abatement lien to the City directly or as part of the general taxes owed to the County, the City then can proceed to judicially foreclose on their lien. Contact the City Attorney to proceed judicially to foreclose on this lien.

**ABATEMENT LIEN CHECKLIST**

- \_\_\_\_\_ Notice of violation and costs incurred in abating the nuisance is mailed to property owner.
  
- \_\_\_\_\_ Notice of hearing. Send out notice of hearing to property owner within reasonable time after abatement occurs.
  
- \_\_\_\_\_ Hearing Examiner conducts hearing not less than ten (10) calendar days after civil notice is issued.
  
- \_\_\_\_\_ If Hearing Examiner finds there is a violation and abatement was necessary, draft Notice of Assessment and Lien. (See Appendix A "Notice of Assessment and Lien Form.")
  
- \_\_\_\_\_ File Notice of Assessment and Lien with County Auditor.
  
- \_\_\_\_\_ Send Certification of Abatement Lien to County Treasurer to ensure that lien is collected as part of the general taxes. (See Appendix B "Certification to County of Assessment Form.")

# Appendix: A

WHEN RECORDED RETURN TO:  
City of Benton City, Washington  
PO Box 70  
Benton City WA 99320

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## NOTICE OF ASSESSMENT AND LIEN

Notice is hereby given that Attachment "A" hereto contains an itemized account of the expense incurred by the City of Benton City, Washington, in the demolition of the removal of the structure and/or debris located at \_\_\_\_\_, legally described as:

(insert legal description) according to the records of said Plat as filed with the Auditor of Benton County, Washington.

Tax Parcel No. \_\_\_\_\_

The Benton City Council, for the demolition of the above-described building, has reviewed the costs and expenses for the demolition thereof, approved the same for payment and ordered that the total charges of \$ \_\_\_\_\_ be assessed against the property and shall constitute a special assessment against and a lien upon the property, pursuant to Section 902 of the Uniform Code for Abatement of Dangerous Buildings.

This lien is subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for State, County and property taxes which shall be upon a party. The lien shall continue until the assessment and all interest due and payable thereon are paid.

DATED this \_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Mayor

STATE OF WASHINGTON )

:ss

County of Benton )

On this day personally appeared before me \_\_\_\_\_,  
\_\_\_\_\_, Mayor of the City of Benton City, Washington, to be the individual  
described in and who executed the within and foregoing instrument, and acknowledged that he  
signed the same as his free and voluntary act and deed for the uses and purposes therein  
mentioned.

GIVEN under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

# Appendix B

Form Letter on Benton City Letterhead

\_\_\_\_\_, 200\_\_\_\_\_

TO:

RE: Benton County Assessor Tax Parcel No \_\_\_\_\_

## **CERTIFICATE OF COSTS FOR BUILDING INSPECTION, DEMOLITION, REPAIR, VACATING, OR CLOSURE**

I, the undersigned, do hereby certify that the following costs were incurred and sums expended by the City of Benton City in the inspection, demolition, repair, vacation or closure of the dwelling, building, structure or premises hereinafter described pursuant to the provisions of the Benton City Municipal Code and Chapter 35.08 of the Revised Code of Washington, and said work has now been completed.

That premises, known as \_\_\_\_\_ is located upon the real property hereinafter legally described as follows:

(insert legal description)

That the owner, reputed owner of said building and persons having an interest are as follows:

(insert names)

The costs of inspection, demolition, repair, vacation, or closure of abatement are as follows:

(insert costs)

I hereby certify that the itemized costs are all costs directly incurred by the City of Benton City, Washington, in the inspection, demolition, repair, vacating or closure of the aforesaid dwelling, building or structure, and this amount is owed as of this date.

Dated at Benton City, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Mayor

## II. CODE ENFORCEMENT LIENS

### A. Events that Triggers Assessment.

If a property contains a Benton City Municipal Code violation that may be a nuisance, but not pose an immediate threat to public health or safety, and thus, does not require immediate removal by the City, the City will then attempt to contact the property owner to correct this code violation. The City will ask the property owner to abate this nuisance.

### B. Voluntary Correction Agreement.

The City may at this time enter into a Voluntary Correction Agreement between the person responsible for the violation and the City, acting through the applicable Code Enforcement Officer.

The content of this Voluntary Correction Agreement is as follows:

1. The name and address of the person responsible for the violation.
2. The street address or description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring.
3. A description of the violation and reference to the provisions of the City ordinances or regulation which have been violated.
4. The necessary corrective action to be taken, and a date and time by which the corrective action must be completed.
5. An agreement by the person responsible for the violation that the City may abate the violation and recover its costs and expenses and a monetary penalty pursuant to this Chapter from the person responsible for the violation if all terms of the Voluntary Correction Agreement are not met.
6. This Agreement must state that by entering into the Voluntary Correction Agreement, the person responsible for the violation waives a right to an administrative appeal of the violation and/or the required corrective action.

If the owner of the property cannot be contacted, refuses to enter into a Voluntary Correction Agreement, or has not completed the voluntary correction of the code violation pursuant to the agreement between the property owner and the City, the City then sends out a notice of civil violation to the person responsible for the violation. This notice shall contain the following information:

1. Name and address of the person responsible for the violation.
2. Street address or description sufficient for identification of the building, structure, premises, or land where the violation occurred or is occurring.
3. A description of the violation and reference to which municipal and state code provision had been violated.
4. Date and time by which correction must be completed, after which the City may take action to abate the violation.
5. Date and time for appeal hearing before the Hearing Examiner, which will be at least ten (10) days from the date the notice of civil violation was issued.
6. A statement that costs and expenses will be assessed and a monetary penalty in the amount per day will be assessed pursuant to BCMC 9.50.060 (E).

**C. Attachment and Perfection of Civil Infraction and Code Enforcement Liens.**

If the Code violation is not voluntarily corrected by the property owner before the Hearing Examiner hearing, the Hearing Examiner can enter Findings of Fact and Conclusions of Law which states that the violation of the Code still occurs and the types of monetary penalties that will be enforced against the property.

Additionally, the Hearing Examiner will then authorize a Civil Infraction Lien Notice, which states that the Code section has been violated and the property upon which the civil infraction has occurred. (See Appendix C "Civil Infraction Lien Notice.")

This lien is then recorded with the Benton County Auditor and attaches to the property.

**D. Collection/Foreclosure of Civil Infraction and Code Enforcement Lien.**

Pursuant to RCW 60.04, the foreclosure action for a civil infraction and code enforcement lien must be commenced within eight (8) months after the filing of the lien with the Benton County Auditor. Therefore, once the civil infraction and/or code enforcement lien has been filed with the Benton County Auditor, the City needs to foreclose on this lien within the eight (8) months after it has been filed with the Benton County Auditor.

In order for the City to protect its claim, a complaint should be filed with the District Court in Benton County or in Superior Court of Benton County if the amount of the code enforcement lien is for more than \$50,000.00.

If judgment is obtained in District Court, that judgment can be transferred to Superior Court where it will be a judgment against the real property and will stay perfected for ten (10) years. Outlined below is the process for collection of code enforcement liens.

**E. Collection Activities Outline.**

1. City Collections Letter (first 30 days after assessment). City will send out pre-collection letter to the property owner where the infraction has occurred giving the property owner thirty (30) days to pay the fine assessed.
2. Contracted Collection Agency (“Agency”) Collectors (30-60 days after assessment). If owner of the property has not paid the fines assessed within thirty days after assessment and pre-collection letter has gone out, then City forwards matter to Agency for collection. The Agency will then send correspondence to property owner stating that if fines assessed are not paid within thirty (30) days of the receipt of correspondence, the property owner could potentially face litigation.
3. District Court and Superior Court Judgment (120 days after assessment). If the property owner has not paid the fines owed to the Agency within ninety (90) days after Agency receives the matter from the City, Agency attorney will bring action in District Court of Benton County or, if the amount of the lien is more than \$50,000.00, then bring an action in Superior Court. If judgment is obtained in District Court, then a transcript of that judgment must be recorded in Benton County Superior Court. This judgment is valid for ten (10) years and can be renewed for an additional ten (10) years. Additionally, an abstract of the judgment in Superior Court can then be filed in any other county in Washington where the property owner might have property.

## **CIVIL INFRACTIONS AND CODE ENFORCEMENT LIEN CHECKLIST**

- \_\_\_\_\_ Code Enforcement Officer for the City of Benton City determines that there has been a code violation and attempts to contact violator.
- \_\_\_\_\_ If owner of the property violating code cannot be contacted, fails to complete a voluntary agreement, or refuses to cease civil infraction within a reasonable time, send notice of hearing to the violator either in person or by mail, both regular and certified.
- \_\_\_\_\_ The Hearing Examiner conducts the hearing not less than ten (10) calendar days after civil notice is issued if the condition necessitating the hearing is not voluntarily corrected by the date specified in the Notice.
- \_\_\_\_\_ After hearing, if the Hearing Examiner determines that the infraction still exists, Draft Civil Infraction Lien Notice and file with County Auditor. (See Appendix C "Civil Infraction Lien Notice Form.")
- \_\_\_\_\_ Immediately after infraction City sends out pre-collection letter to property owner demanding payment and abatement of code violation within thirty (30) days of assessment.
- \_\_\_\_\_ If property owner fails to pay code enforcement fine and abatement code violation within thirty (30) days of assessment, matter sent to Agency who will send out demand letter, giving property owner thirty (30) days to pay fines assessed.
- \_\_\_\_\_ If property owner does not pay fines assessed within ninety (90) days after Agency has sent correspondence demanding payment, Agency shall file a claim in District Court of Benton County or in Benton County Superior Court if claim is for more than \$50,000.00.
- \_\_\_\_\_ Once judgment is obtained in District Court, Agency files transcript of judgment with Benton County Superior Court.

# Appendix C

**WHEN RECORDED, PLEASE RETURN TO:**

CITY OF BENTON CITY  
PO Box 70  
Benton City WA 99320

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**CIVIL INFRACTION LIEN NOTICE**  
**Benton City Municipal Code \_\_\_\_\_**

CITY OF BENTON CITY, a Washington )  
Municipal Corporation )

Tax Parcel No. \_\_\_\_\_

**Grantee,** )

vs. )

John Doe/Jane Doe )

**Grantor.** )

**NOTICE IS HEREBY GIVEN** that the City of Benton City, a Washington Municipal Corporation, has and claims a lien for Civil Infraction Number(s) \_\_\_\_\_, charges against the following described premises situated in Benton City, Benton County, Washington, to wit:

(Insert legal description)

More legally known as \_\_\_\_\_, Benton City, Washington.

Tax Parcel No. \_\_\_\_\_

Said lien is claimed for not exceeding six (6) months charges and interest now delinquent in the amount of \$ \_\_\_\_\_, and is also claimed for future civil violation charges against said premises.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 200\_\_

**CITY OF BENTON CITY, WASHINGTON**

\_\_\_\_\_  
\_\_\_\_\_, Mayor

STATE OF WASHINGTON )

: ss.

COUNTY OF Benton )

On this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me, personally appeared \_\_\_\_\_, Mayor of the City of Benton City, Washington, to me known to be the individual who executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunder set my hand and seal the day and year first written above.

\_\_\_\_\_  
Print Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

### III. LOCAL IMPROVEMENT DISTRICT (LID) ASSESSMENT

#### A. **Event that Triggers Assessment.**

Local Improvement District (LID) assessments are assessed and attached to property upon creation by the Benton City City Council. The City Council passes an Ordinance that creates a LID, and the improvements are assessed against the property within the District and paid back over a period of time. The LID assessments are recorded on the Benton County tax rolls and submitted to the Benton County Treasurer for recording. Once these LID assessments are recorded with the Benton County Treasurer, they attach to the property with the LID and the City's assessment is perfected. Foreclosure may be initiated if the assessment payments become delinquent.

#### B. **Foreclosure of LID Assessment.**

LID assessment can be foreclosed after two (2) installment payments are delinquent, or the final installment payment is delinquent for one (1) year. (RCW 35.50.030.)

The City can begin foreclosure proceeding after the first day of January and before the first day of March of the year following the missed payments. Once the City has determined that the property owner is delinquent, pursuant to the above requirements, a Local Improvement District Foreclosure Information Sheet (Appendix D) should be completed and forwarded to the City Attorney.

If the property owner still refuses to pay the delinquent LID assessment, then the City must proceed with foreclosing on the property.

**LOCAL IMPROVEMENT DISTRICT (LID) ASSESSMENT CHECKLIST**

- \_\_\_\_\_ After first day of January, determine if property owner has missed two LID payment or not made the final installment payment for one year.
- \_\_\_\_\_ If LID debtor is delinquent then assessment must be foreclosed on or before March 1st of that same year.
- \_\_\_\_\_ Send notification of delinquency and a demand for payment by regular and certified mail.
- \_\_\_\_\_ Complete the LID Foreclosure Information Sheet and forward to the City Attorney.

**APPENDIX D**

**LOCAL IMPROVEMENT DISTRICT  
FORECLOSURE  
INFORMATION SHEET**

1. Contact Person \_\_\_\_\_ Phone \_\_\_\_\_  
Date received \_\_\_\_\_
2. Name/Address of Assessed Owner \_\_\_\_\_
3. Address of assessed property \_\_\_\_\_
4. Legal description of assessed property \_\_\_\_\_
5. Assessed valuation \$ \_\_\_\_\_ Residential structure? \_\_\_\_\_
6. Is there a farm or agricultural land exemption? \_\_\_\_\_
7. Is there a homestead exemption? \_\_\_\_\_
8. LID # \_\_\_\_\_ Date of authorizing Ordinance \_\_\_\_\_ Copy attached \_\_\_\_\_
9. Date of delinquency \_\_\_\_\_ Two annual installments? \_\_\_\_\_ Final? \_\_\_\_\_
10. Authenticated assessment roll and confirming Ordinance attached? \_\_\_\_\_
11. Nature of improvements and verification of completion \_\_\_\_\_
12. Amount of delinquency \$ \_\_\_\_\_ Schedule attached? \_\_\_\_\_
13. Known lien claimants \_\_\_\_\_
14. Nature of lien(s) \_\_\_\_\_
15. Has Treasurer's Notice been served? \_\_\_\_\_ Date served \_\_\_\_\_ Copy attached \_\_\_\_\_
16. Any known potential defenses? \_\_\_\_\_
17. Title Company preference \_\_\_\_\_
18. Prefer judgment sale by City Treasurer? \_\_\_\_\_ County Sheriff? \_\_\_\_\_
19. Will the City accept a Deed in Lieu of Foreclosure? \_\_\_\_\_
20. What is the estimated Fair Market Value for the property? \_\_\_\_\_

#### IV. UTILITY LIENS

**A. Event that Triggers Assessment.**

RCW 35.21.290 allows cities owning their own water works and wastewater treatment plants to have liens against the real property to which utility services were furnished for unpaid utility charges.

**B. Attachment and Perfection.**

The City automatically has a lien that attaches to the property for unpaid utility charges up to four (4) months. The City may prepare and file a utility lien with the Benton County Auditor for the delinquent charges. (See Appendix E "Utility Lien Notice.") Pursuant to RCW 35.21.290, the City will not have a lien for any charges more than four months.

**C. Enforcement and Cutting off Service.**

Pursuant to RCW 35.21.300, a lien for charges for service by a City waterworks may only be enforced by cutting off service until delinquent unpaid charges are paid. However, if the owner of the Property disputes the amount owed to the City and tenders the amount they believe is owed, prior to the City shutting off service, the City must bring a civil suit against the property owner in order to shut off the service.

## UTILITY LIENS CHECKLIST

- \_\_\_\_\_ Verify that utility has not been paid.
  
- \_\_\_\_\_ Draft lien for non-payment of utility and file with Benton County Auditor. Amount cannot exceed four months. (See Appendix E "Utility Lien Notice.")
  
- \_\_\_\_\_ If utility charges are not paid, City may turn off the utility unless payment plan has been put into place.
  
- \_\_\_\_\_ If property owner disputes the utility charges owed and pays the amount they believe is owed, prior to the City shutting off service, then City must institute a civil suit against the property owner and judgment for the city must be rendered. Contact the City Attorney to institute civil suit.

# Appendix E

**WHEN RECORDED, PLEASE RETURN TO:**  
CITY OF BENTON CITY  
PO Box 70  
Benton City WA 99320

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## UTILITY LIEN NOTICE

CITY OF BENTON CITY, a Washington	)	
Municipal Corporation	)	
	)	
<b>Claimant,</b>	)	Account No. _____
vs.	)	
	)	Tax Parcel No. _____
_____	)	
	)	
<b>Reputed Owner.</b>	)	

**NOTICE IS HEREBY GIVEN** that the City of Benton City, Washington, has and claims a lien for utility charges against the following described premises situated in Benton City, Benton County, Washington, to wit:

(Insert legal description)

Said lien is claimed for not exceeding four (4) months and such charges and interest are now delinquent, amount to \$ \_\_\_\_\_, and is also claimed for future sewerage charges against said premises.



## V. SEWER LIENS

### A. Event that Triggers Assessment.

RCW 35.67.200 allows cities owning their own sewer system to have a lien for delinquent and unpaid rates and charges for sewer services, as well as connection charges and interest thereon against the property to which the service is being furnished or available.

### B. Attachment and Perfection.

In order for the sewer lien to attach to the property and be perfected, the City must prepare a Sewer Lien Notice and file this notice with the Benton County Auditor. (See Appendix F "Sewer Lien Notice.")

A lien for delinquent sewer charges automatically attaches to property being serviced by the City sewer for a total of no more than six (6) months worth of delinquent charges. A City can pass an Ordinance stating that the delinquent charges can be extended to one (1) year delinquent assessment.

In order for a sewer lien to extend beyond six months or one year delinquency period, a lien must be recorded with the Benton County Auditor.

### C. Foreclosure.

A sewer lien may be foreclosed on anytime within two (2) years of the filing of the lien notice with the Benton County Auditor. This action to foreclose this lien must be brought in Benton County Superior Court. If the property is successfully foreclosed on and sold at a property foreclosure sale, the owner of said property shall have a right to redeem this property within one (1) year from the date of the sale. All general taxes and special assessments must be paid before satisfaction of the sewer lien.

Please contact the City Attorney before proceeding with foreclosure of the sewer lien.

### D. Cutting off Service.

Pursuant to RCW 35.67.331 and BCMC Title 13A, Benton City has combined its waterworks and sewer system. Therefore, Benton City is authorized to shut off the water service to a premise that is delinquent in its sewer bill under RCW 35.21.300, unless the amount is disputed. (See p. 17, ¶ entitled "Enforcement: Cutoff of Service").

## SEWER LIEN CHECKLIST

- \_\_\_\_\_ Verify that sewer payments have not been made by property owner.
- \_\_\_\_\_ Prepare a lien for nonpayment of sewer liens and file with the Benton County Auditor. (See Appendix F "Sewer Lien Notice.")
- \_\_\_\_\_ If sewer lien is not satisfied, contact the City Attorney to bring action in the Benton County Superior Court to foreclose.

# Appendix F

**WHEN RECORDED, PLEASE RETURN TO:**  
CITY OF BENTON CITY  
PO Box 70  
Benton City, WA 99301

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## SEWER LIEN NOTICE

CITY OF BENTON CITY, a Washington	)	
Municipal Corporation	)	
	)	
<b>Claimant,</b>	)	Account No. _____
vs.	)	
	)	Tax Parcel No. _____
_____	)	
	)	
<b>Reputed Owner.</b>	)	

**NOTICE IS HEREBY GIVEN** that the City of Benton City, Washington, has and claims a lien for sewer charges against the following described premises situated in Benton City, Benton County, Washington, to wit:

(Insert legal description)

Said lien is claimed for not exceeding six (6) months and such charges and interest are now delinquent, amount to \$ \_\_\_\_\_, and is also claimed for future sewerage charges against said premises.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

**CITY OF BENTON CITY, WASHINGTON**

\_\_\_\_\_  
\_\_\_\_\_, Mayor

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF Benton        )

On this \_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, before me, personally appeared \_\_\_\_\_,  
Mayor of the City of Benton City, Washington, to me known to be the individual who executed the within  
and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed,  
for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunder set my hand and seal the day and year first written  
above.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

## VI. GENERAL TAXES AND EFFECT ON MUNICIPAL LIENS

### A. General Tax Liens Effect on Municipal Liens.

Liens for delinquent general taxes have priority over most municipally created liens, with the exception of abatement liens and LID assessments. Therefore, it is important to know the status of the property and whether it is subject to general tax liens or has been sold pursuant to general tax liens.

### B. Foreclosure.

If a general tax lien is foreclosed on then a municipal lien survives unless the county acquires the property in the sale.

#### 1. County Acquires Property at Foreclosure Sale.

- a) Municipal liens are wiped out. RCW 84.64.230 states that if the county acquires the subject property either due to there being no other bidders or the county purchasing the property, in general tax foreclosure, then the municipal liens are wiped out. Tacoma v. Pierce County, 79 Wn.2d 361, 363-364, 485 P.2d 454 (1971).
- b) Local Improvement District assessments survive. However, pursuant to RCW 35.49.160, a holder of a general tax lien, who purchases the property on which an LID has been assessed, purchases that property subject to that LID assessment. Tacoma, 79 Wn.2d.366
- c) Excess proceeds from County resale. Pursuant to 35.49.160, if the property foreclosed and purchased by the County to satisfy delinquent general taxes is resold by the county to a private purchaser and the amount the property is sold for exceeds the general taxes owed, then the excess proceeds will be used to discharge any LID assessments. However, municipal liens will not have any claim to any excess proceeds.

#### 2. County Doesn't Acquire Property at Foreclosure Sale.

If the county forecloses on a general tax lien and the buyer is not the county, but instead a private party, then any municipal liens for abatement that are listed on the tax rolls under RCW 35.80.030(1)(h) (i.e. demolition assessments) still attach. Pierce Co. v. Schwab, 48 Wn. App. 418, 423, 739 P.2d 116 (1987). So long as the buyer could have looked at the title report for the legal description of the property being sold and known that the lien still attaches then the lien follows the property. Id.

## VII. BANKRUPTCY AND EFFECTS ON MUNICIPAL LIENS

Bankruptcy has various effects on the posture of municipal liens, depending on whether the bankruptcy debtor decides to retain the property on which the lien is attached to. Also, the City needs to thoroughly examine the proposed treatment of the municipal lien in the debtor's bankruptcy schedules, petitions and bankruptcy plan.

Listed below are different situations, regarding the effects bankruptcy has on various types of municipal liens and the actions that should be taken by the City to protect these liens.

### A. Utilities and Adequate Assurance.

If a bankruptcy debtor is delinquent in paying charges and wishes to continue their use of a municipal utility after declaring bankruptcy, then the debtor must provide adequate assurance, in the form of a bond or payment in the Bankruptcy Plan, in order to continue its use of that utility. The action that needs to be taken by the City, when a debtor with delinquent utility charges files for bankruptcy, varies depending on what chapter of bankruptcy the debtor files under.

#### 1. Chapter 7 Bankruptcy.

If a bankruptcy debtor files a Chapter 7 bankruptcy and wishes to continue use of the municipal utility, then under 11 USC 366, that debtor must provide a bond to the Bankruptcy Court that is reflective of the average monthly utility bill. The Courts have not established an exact standard for how the average monthly utility be gauged, however, the Court usually looks at the two previous utility bills assessed to the debtor prior to the filing of the bankruptcy. The debtor in a Chapter 7 bankruptcy must bring an action for adequate assurance for payment of the utility bond within the first 30 days after the filing of the bankruptcy. Additionally, if the amount listed as the bond is not reflective of the average utility payment by the debtor, the City must object and request a hearing to determine what amount should be paid as the utility bond. If the debtor has failed to file a motion for adequate assurance with the Bankruptcy Court, the City should object to the debtor's discharge in bankruptcy based on the failure to provide adequate assurance. Lastly, in a Chapter 7 bankruptcy, all prior missed utility payments will be discharged.

#### 2. Chapter 11, 12, and 13 Bankruptcy.

If the bankruptcy debtor is filing a Chapter 11, 12 or 13 bankruptcy and the debtor wishes to continue use of the municipal utility, the debtor must again bring a motion for payment of adequate assurance to the municipal utility. However, in a Chapter 11, 12 or 13 Bankruptcy Plan, the debtor does not have to post a bond with the Court, but instead must provide for payment of the utility as part of the Bankruptcy Plan. The City should review the proposed treatment of the continued payment of the utilities, as well as any arrears owed on utilities, as

proposed in the debtor's Bankruptcy Plan. If the City disagrees with this treatment, either based on the amount to be paid or the manner in which it will be paid, the City must then object to a debtor's motion for adequate assurance, or if the debtor fails to bring a motion for adequate assurance, then the City must object to confirmation of the debtor's Bankruptcy Plan.

**B. Impairment of Exemptions.**

In the case of perfected and attached municipal liens, a debtor can avoid these liens if they impair the allowed homestead exemption. 11 USC § 522 (f) allows for a debtor to avoid municipal liens that impair the debtor's exemption based on the amount of equity the debtor has in real property. This exemption can only be taken by individuals and not businesses that are declaring bankruptcy. 11 USC § 522 (d) allows an individual debtor to claim an exemption in their real property in the amount of \$18,450.00, or in the case of a debtor and a co-debtor, the debtor may claim a homestead exemption of \$36,900.00. Additionally, the debtor may elect to take the Washington State exemption in bankruptcy, which would allow them to exempt \$40,000.00 of available equity on the existing real property. The debtor must bring a motion in the Bankruptcy Court to avoid liens and impair this exemption. This motion is based on the debtor's value of the real property.

The City must examine the proposed valuation of the property to determine if this lien can be avoided. Typically, the value of real property is the tax assessed value plus an additional 20-30 percent. If a debtor is attempting to avoid a municipal lien, the City should examine the proposed valuation and determine if it is low. At this point, the City should then proceed with having their own market value analysis done for the property from a licensed real estate broker to determine the actual value of the homestead. If the debtor has valued the property too low, then the City must file a formal objection with the Bankruptcy Court stating what the City believes is the correct valuation. Please contact the City Attorney to have these formal objections drafted.

**C. Relief from Stay Action.**

If a debtor declares bankruptcy in any Chapter, and it appears there is excess value to property in which a municipal lien has attached, then the City can bring an action to foreclosure its lien within the bankruptcy. If the debtor's schedules, petitions and/or Bankruptcy Plan lists property that is not exempted or may have value, then the City should proceed with asking the Court for relief from the automatic stay in bankruptcy to proceed with the foreclosure on the property, under 11 USC § 362. The City should examine what other encumbrances are on the property, i.e., mortgages and other judgment liens that come first in time, and if there appears to be excess equity on the property, then the City should proceed with obtaining a relief from stay and then foreclosing on the property. Please contact the City Attorney to proceed with foreclosure in bankruptcy.

**ADEQUATE ASSURANCE CHECKLIST**

- \_\_\_\_\_ If debtor files Chapter 7 bankruptcy and is delinquent in utility payments, check to see if debtor has filed motion for adequate assurance payments of utility.
  
- \_\_\_\_\_ If Chapter 7 debtor files motion for adequate assurance payments, check amount to be paid, in the form of a bond, to insure that it reflects the average monthly utility charges. If the amount does not reflect the average utility charges, the City should file a formal objection to the motion for payment of adequate assurance within the time frame provided by the Bankruptcy Court.
  
- \_\_\_\_\_ If Chapter 7 debtor is delinquent in utility payments and has failed to file a motion for adequate assurance, the City should file an objection to debtor's discharge based on this failure to provide adequate assurance.
  
- \_\_\_\_\_ If a Chapter 13 debtor files for bankruptcy and intends on continuing its use of utilities and has filed a motion for payment of adequate assurance, the City should review the motion to determine that the amount to be paid through the debtor's Bankruptcy Plan reflects the average monthly utility charges.
  
- \_\_\_\_\_ If debtor is delinquent in utility payments and is filing a Chapter 13 bankruptcy and fails to file a motion for adequate assurance payments, the City should file an objection to the Chapter 13 Plan confirmation.
  
- \_\_\_\_\_ If debtor is filing a Chapter 11 or 12 bankruptcy and has brought a motion for adequate assurance, review the motion to determine that the proposed adequate assurance payments reflect the average monthly utility charges.
  
- \_\_\_\_\_ If the debtor is filing a Chapter 11 or 12 bankruptcy and has failed to bring a motion for adequate assurance payments, the City must object to confirmation of the Bankruptcy Plan based on failure to provide adequate assurance of payment of utilities.

## **IMPAIRMENT OF HOMESTEAD EXEMPTIONS CHECKLIST**

- \_\_\_\_\_ If the bankruptcy debtor proposes to avoid the City lien based on impairment of the homestead exemption, the City should review the alleged value of the homestead property.
  
- \_\_\_\_\_ If homestead property appears to be under the value based on tax assessment or opinion of licensed realtor, then the City should bring an objection to the motion to avoid.

**RELIEF FROM STAY CHECKLIST**

\_\_\_\_\_ If debtor has property which the municipal lien attaches, the City should examine the value of the property, prior encumbrances, and exemptions the debtor has taken, to determine if there is any equity available.

\_\_\_\_\_ If there is equity available, contact City Attorney for relief from stay action to foreclose on property in bankruptcy.

**RESOLUTION NO. 2008- 16**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF BENTON CITY AND THE PORT OF KENNEWICK**

**WHEREAS**, the City of Benton City has established a goal for the development of that property adjacent to I-82; and

**WHEREAS**, the Port of Kennewick, likewise, owns the property adjacent to I-82 and both parties desire to extend sewer and water services to service this property under a Master Plan for the beneficial development of this property; and

**WHEREAS**, engineering planning services are necessary for the development of the Master Plan and the City has secured the services of Spink Engineering, LLC to serve as a consultant for the project; and

**WHEREAS**, the Port of Kennewick has determined it to be in its best interest to participate in the engineering and planning for such property, and has agreed to contributed \$10,000 under a Memorandum of Agreement reached between the parties; and

**WHEREAS**, it is determined to be in the best interest of the City and the Port of Kennewick to pursue this cooperative agreement; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON**, hereby resolves as follows:

That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the original Memorandum of Agreement Regarding Cooperative Sponsorship – Water and Sewer Expansion Between the City of Benton City and the Port of Kennewick, a copy of which is attached hereto and incorporated hereinby this reference as Exhibit A; and to take all necessary steps required to complete this transaction.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2008, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this \_\_\_ day of \_\_\_\_\_, 2008.

Resolution 2008-16 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Lloyd R. Carnahan  
Mayor

Attest:

Approved as to Form:

---

Stephanie Hoegh  
*City Clerk/Treasurer*

---

Leland B. Kerr  
*City Attorney*

**RESOLUTION NO. 2008-17**

**A RESOLUTION AUTHORIZING THE RECEIPT OF REAL PROPERTY FROM THE KENNEWICK IRRIGATION DISTRICT; AUTHORIZING THE MAYOR TO EXECUTE A COVENANT WAIVING THE UTILITY HOOK- UP FEES; AND TO TAKE ALL NECESSARY STEPS REQUIRED TO COMPLETE THE TRANSACTION**

**WHEREAS**, the Kennewick Irrigation District has proposed to trade .83 acres of property in exchange for the City of Benton City to waive the hook-up fees for four ¾" water/sewer connections; and

**WHEREAS**, the value of these connection fees is equal to the value of real property to be received by the City; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to acquire this property from the Kennewick Irrigation District in exchange for a Covenant to waive the water/sewer connection fees; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON**, hereby resolves as follows:

Section 1. That it is in the best interest of the City to receive the .83 acres of real property from the Kennewick Irrigation District in exchange for a Covenant which the City will execute waiving water and sewer connection fees to property described in the attached Covenant.

Section 2. The City Council authorizes the Mayor of the City of Benton City to execute a Covenant waiving the water and sewer connection fees to property owned by the Kennewick Irrigation District as described in the attached Covenant; sign the Real Estate Tax Affidavit; and to take all necessary steps required to complete the transaction.

**ADOPTED** this 5th day of August, 2008, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 5th day of August, 2008.

Resolution 2008-17 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 5th day of August, 2008.

---

Lloyd R. Carnahan  
Mayor

Attest:

Approved as to Form:

---

Stephanie Hoegh  
*City Clerk/Treasurer*

---

Leland B. Kerr  
*City Attorney*

**RESOLUTION NO. 2008- 18**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE KI-BE ROAD PROJECT AGREEMENT BETWEEN THE CITY OF BENTON CITY AND THE BENTON IRRIGATION DISTRICT**

**WHEREAS**, the Benton Irrigation District and the City desire to enter into an Agreement regarding new irrigation pipe that would be constructed under the existing Ki-Be Road; and

**WHEREAS**, the Benton Irrigation District and the City have already come to an agreement on the responsibilities of each parties in the event repairs are necessary in the future for the irrigation pipe; and

**WHEREAS**, the obligations and requirements between the City and the Benton Irrigation District are set forth in a written Agreement; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON**, hereby resolves as follows:

That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the original Ki-Be Road Project Agreement Between the City of Benton City and the Benton Irrigation District, a copy of which is attached hereto and incorporated hereinby this reference as Exhibit A; and to take all necessary steps required to complete this transaction.

**ADOPTED** this 5 day of August, 2008, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 5 day of August, 2008.

Resolution 2008- 18 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 5 day of August, 2008.

\_\_\_\_\_  
Lloyd R. Carnahan  
*Mayor*

Attest:

Approved as to Form:

\_\_\_\_\_  
Stephanie Hoegh  
*City Clerk/Treasurer*

\_\_\_\_\_  
Leland B. Kerr  
*City Attorney*

**RESOLUTION NO. 2008-19**

**A RESOLUTION APPROVING THE INTERLOCAL AGREEMENT AND AMENDMENT THERETO WITH BENTON COUNTY FOR ADMINISTERING AFFORDABLE HOUSING FOR ALL SURCHARGE FUNDS; AUTHORIZING THE MAYOR TO SIGN THE INTERLOCAL AGREEMENT; AND PROVIDING FOR THE APPOINTMENT OF A MEMBER OF THE SURCHARGE STEERING COMMITTEE**

**WHEREAS**, the Washington legislature has provided for funding of low-income housing and housing assistance by the creation of the "Affordable Housing for All Fund" which in part is administered by the counties for the benefit of very low-income households residing within the cities and the unincorporated areas of the County; and

**WHEREAS**, portions of such funds are retained by the County for application on a local basis under the terms of an Interlocal Agreement which provides for the administration of the funds through a Surcharge Steering Committee, which includes a representative of the City appointed by the City Council; and

**WHEREAS**, since the presentation of the original Interlocal Agreement, negotiated amendments have been made thereto to clarify the language in both the Interlocal Agreement and its Exhibit A; and

**WHEREAS**, it has been determined by the City Council that participation in this Interlocal Agreement and the Amendment thereto, provides a most efficient manner of distribution of these funds to those truly in need; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON**, hereby resolves as follows:

That the City of Benton City enter into that Interlocal Agreement Between the County of Benton, and: the City of Benton City, the City of Kennewick, the City of Prosser, the City of Richland, and the City of West Richland Regarding Administering Funds Generated as a Result of State of the Affordable Housing for all Surcharge, RCW 36.22.178, and the Amendment to Standard Service Agreement, copies of which are attached hereto and incorporated herein by this reference as Exhibit A; the Mayor of the City of Benton City be authorized and directed to sign said Interlocal Agreement and Amendment; and that a City representative to the Surcharge Steering Committee be appointed pursuant to BCMC 2.08.025.

**ADOPTED** this \_\_\_\_\_ day of August, 2008, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this \_\_\_\_\_ day of August, 2008.

Resolution 2008-19 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this \_\_\_\_\_ day of August, 2008.

\_\_\_\_\_  
Lloyd R. Carnahan  
*Mayor*

Attest:

Approved as to Form:

\_\_\_\_\_  
Stephanie Hoegh  
*City Clerk/Treasurer*

\_\_\_\_\_  
Leland B. Kerr  
*City Attorney*