

First Reading: 3/5/2013

Second Reading: 3/19/2013

**ORDINANCE NO. 920**

**AN ORDINANCE OF THE CITY OF BENTON CITY, WASHINGTON, AMENDING SECTION 2.09.010 "PROCLAMATION OF CIVIL EMERGENCY - EMERGENCY DEFINED"; SECTION 2.09.020 "ACTION WHICH MAY BE TAKEN"; AND CREATING SECTION 2.09.035 "CONTINUITY OF GOVERNMENT" ESTABLISHING THE POWERS AND PROCEDURES FOR THE DECLARATION OF AN EMERGENCY**

**WHEREAS**, the City Council approved Ordinance No. 876 "Emergency Powers" on November 3, 2010; and

**WHEREAS**, the Ordinance needs to be amended to be consistent with the Second Amendment of the United States Constitution and the Washington Constitution Article 1, Section 24, relating to the right of individual citizens to bear arms; and

**WHEREAS**, the State has preempted firearm's regulations pursuant to RCW 9.41.290; and

**WHEREAS**, the City Council wishes to amend the Ordinance to include additional provisions for continuity of government consistent with RCW 42.14.050, and to further assist in complying with the Benton County Hazard Mitigation Plan; and

**WHEREAS**, the City wishes to do everything within its power during an emergency to promote the health, welfare and safety of its citizens, and to provide for the continuity of government; NOW, THEREFORE,

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

**Section 1.** That Section 2.09.010 entitled "Proclamation of civil emergency - Emergency Defined" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

**2.09.010 Proclamation of civil emergency – Emergency defined.**

- A.** Whenever a civil emergency, or the imminent threat thereof, occurs in the City and results in, or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the Mayor, extraordinary measures to protect the public peace, safety and welfare, the Mayor shall forthwith proclaim in writing the existence of a civil emergency. In the absence of the Mayor, the Mayor Pro Tem may declare a civil emergency and issue orders, and in the absence of the Mayor Pro Tem, the City Clerk may declare a civil emergency and issue orders. The authority granted to the Mayor in this Chapter is in addition to and not in limitation of other policies allowing the Mayor to declare an emergency and take action necessary to deal with

such emergency. For the purposes of this chapter a civil emergency shall mean:

- 1A. A riot, unlawful assembly, insurrection, enemy attack, sabotage, terrorist act, or other hostile action; or
- 2B. A natural or human caused disaster, including fire, flood, storm, explosion, earthquake, volcanic disturbance or other natural cause; or
- 3C. Any emergency or disaster as defined by RCW 38.52.010.

B. Proclamations of civil emergencies issued by the Mayor shall as soon as practicable, be filed with the City Clerk and presented to the City Council for ratification and confirmation, modification or rejection. Proclamations which are rejected shall, after vote, be void. Proclamations shall be considered in full force and effect until the City Council shall act.

**Section 2.** That Section 2.09.020 entitled "Action which may be taken" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

**2.09.020** **Action which may be taken.**

- A. Upon the proclamation of a civil emergency by the Mayor, and during the existence of such emergency the Mayor may make and proclaim any or all of the following orders:
  - 1. An order imposing a general curfew application to the City as a whole, or to such geographical area or areas of the City and during such hours as he deems necessary, and from time to time to modify the hours such curfew will be in effect and the area or areas to which it will apply.
  - 2. An order requiring ~~any or all~~ business establishments within the geographic area impacted by the civil emergency to close and remain closed until further order.
  - 3. An order requiring the closure of any or all bars, taverns, liquor stores and other business establishments where alcoholic beverages are sold or otherwise dispensed; provided, that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the Mayor, be allowed to remain open.
  - ~~4. An order requiring the discontinuance of the sale, distribution or giving away of firearms and/or ammunition for firearms in any or all parts of the City.~~
  - 45. An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammable or combustible

products in any container other than a gasoline tank property affixed to a motor vehicle.

- ~~6.~~ ~~An order requiring the closure of any or all business establishments, where firearms and/or ammunition for firearms are sold or otherwise dispensed; provided, that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for sale of items other than firearms and ammunition may, in the discretion of the Mayor, be allowed to remain open.~~
  57. An order closing to the public any or all public places, including streets, alleys, public ways, schools, parks, amusement areas and public buildings.
  - ~~8.~~ ~~An order prohibiting the carrying or possession of firearms or any instrument which is capable of producing bodily harm and which is carried or possessed with the intent to use the same to cause such harm; provided, that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties.~~
  69. An order waiving the public works competitive bidding requirements and awarding contracts to address the emergency situation in accordance with RCW Chapters 38.52 and 39.04, and waiving other time-consuming procedures and formalities consistent with RCW 38.52.070(2).
  740. An order directing the use of all public and private health, medical and convalescent facilities and equipment to provide emergency health and medical care for injured persons.
  - ~~8.~~ An order authorizing, in cooperation with utility management and appropriate State and Federal agencies, the shutting off, restoration, and operation of utility services in accordance with priorities established for combating such civil emergency.
  9. An order providing for the evacuation and reception of the population of the City or any part thereof.
  10. Such other orders as are immediately necessary for the protection of life and property.
- B. Provided, however, that any such orders shall, at the regular or special meeting of the City Council next following the date the orders are issued, be presented to the City Council for ratification and confirmation by Resolution of the City Council, and if not so ratified and confirmed shall be of no further effect. Provided further, in the event an order is issued under subparagraph 9 6 above, then the Mayor shall also make a finding that an emergency existed within two (2) weeks from the date the order was

issued and post the contract and findings on the City's website. If the City's website is down due to the emergency, then the Mayor shall take reasonable steps to notify the public of the award of the contract and the substance of his findings in accordance with State law.

**Section 3.** That a new Section 2.09.035 entitled "Continuity of Government" of the Benton City Municipal Code shall be and hereby is enacted and shall read as follows:

**2.09.035 Continuity of Government.** In the event that the Mayor and the Mayor Pro Tem are unavailable by reason of civil emergency to exercise the powers and discharge the duties of the office, then those members of the City Council available for duty shall by majority vote, select one of their members to act as the executive head of the City.

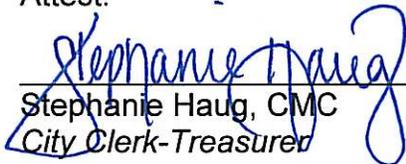
**Section 4.** Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of this Ordinance shall not as a result of said section, subsection, sentence, clause, or phrase be held unconstitutional or invalid.

**Section 5.** This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

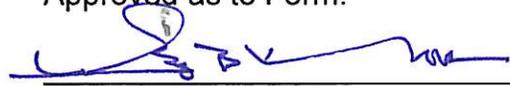
**PASSED** by the City Council of the City of Benton City, Washington, and approved as provided by law this 19 day of March, 2013.

  
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Lloyd R. Carnahan  
Mayor

Attest:

  
\_\_\_\_\_  
Stephanie Haug, CMC  
City Clerk-Treasurer

Approved as to Form:

  
\_\_\_\_\_  
Kerr Law Group  
City Attorney