

RESOLUTION NO. 2013-05

**A RESOLUTION ESTABLISHING CERTAIN POLICIES
FOR APPLICATION OF BENTON CITY MUNICIPAL CODE
CHAPTER 15.10 "FLOOD DAMAGE PREVENTION"**

WHEREAS, the City of Benton City maintains and enforces the Benton City Municipal Code, Chapter 15.10 "Flood Damage Prevention" as required by the State of Washington Department of Ecology and the Federal Emergency Management Agency in conjunction with the City's participation in the National Flood Insurance Program; and

WHEREAS, a certain private ditch historically used for irrigation and drainage purposes ran through properties located south of Babs Avenue along an area designated as the boundary between the 100-year flood boundary and the 500-year flood boundary; and

WHEREAS, said ditch has been filled in many locations due to natural erosion and unpermitted and permitted man-made fill, and no longer serves as an irrigation or drainage ditch; and

WHEREAS, it has been the policy of the City to deny permits for filling the ditch pursuant to BCMC 15.10.270.B.4 unless the permit applicant could provide satisfactory evidence that filling the ditch would not alter or relocate a water course; and

WHEREAS, the State of Washington Department of Ecology issued a letter dated December 22, 2011, expressing the opinion that the City can issue permits to fill the ditch without violating BCMC Chapter 15.10 or other State or Federal law; and

WHEREAS, the City is also in receipt of a Hydrology Report submitted by a private citizen from Hydrogeologist Linda Lehman, dated November 8, 2011, indicating that filling those portions of the ditch not already filled would not be detrimental to or endanger properties located in that area of the City; and

WHEREAS, the City wishes to institute a new policy in administering BCMC Chapter 15.10 based on the changed circumstances. NOW, THEREFORE,

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

1. The Mayor, or his designee, is hereby authorized to issue permits for filling the above-described ditch pursuant to BCMC 15.10.270 based upon the permit applicant's written statement that the fill will not significantly alter or relocate a water course without requiring substantial supporting evidence regarding that issue. Provided further, that the application indicates the fill will be used to bring the ditch to even level with the immediately surrounding area, and that the fill will not significantly increase the elevation of the proposed project area.
2. This Resolution shall be considered a non-binding policy directive, and nothing herein shall require or make mandatory the issuance of a permit. Furthermore, the Mayor, or his designee, may still deny a permit pursuant to BCMC 15.10 for filling any portions of the ditch running across those properties as described above, if in the sole discretion of the Mayor, or his designee, issuance of the

permit is not otherwise appropriate under the requirements of BCMC Chapter 15.10 or other State or Federal law.

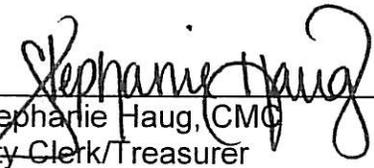
ADOPTED this 5 day of March, 2013, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 5 day of March, 2013.

Resolution 2013-05 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 5 day of March, 2013.



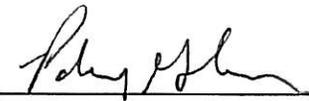
Lloyd R. Carnahan,
Mayor

Attest:



Stephanie Haug, CMC
City Clerk/Treasurer

Approved as to Form:



Kerr Law Group
City Attorney