

ORDINANCE NO. 216 X

AN ORDINANCE OF THE TOWN OF ST. JOHN DEALING WITH UNFIT DWELLINGS, BUILDINGS, STRUCTURES AND PREMISES; ESTABLISHING PROCEDURES FOR THE REPAIR OR DEMOLITION OF THE SAME; PROVIDING FOR APPEALS; PROVIDING FOR ASSESSMENT PROCEDURES AND FIXING CIVIL PENALTIES FOR INFRACTIONS OF THIS ORDINANCE.

WHEREAS, the Council of the Town of St. John finds that one or more of the following conditions exist within the Town, to wit: 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, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residence of the Town of St. John; and

WHEREAS, the Council of the Town of St. John has determined to avail itself of the powers and authorities granted to cities and towns under Chapter 35.80 RCW where said conditions exist; and

WHEREAS, three copies of said Chapter 35.80 RCW have been on file with the Town Clerk in the City Hall since Jan. 13, 199~~0~~ for public inspection and perusal.

NOW, THEREFORE, be it ordained by the Council of the Town of the Town of St. John as follows:

Section 1. Statutory Provisions Adopted. Chapter 35.80 RCW, as amended, pertaining to unfit dwellings, buildings, structures and premises and their disposition, is adopted as an Or-

dinance of the Town, insofar as it is within the jurisdiction of the Town to enforce, control and regulate the conditions sought to be alleviated in this Ordinance.

Section 2. Intent. The Council further establishes procedures for the repair or removal of dwellings which are unfit for human habitation and buildings, structures and premises which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanliness, inadequate lights or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residence of St. John.

Section 3. Definitions. As used in this Ordinance, the following terms shall have the following meanings, unless a different meaning is clearly indicated by the context:

- (1) "Public Officer" means the building inspector.
- (2) "Building Inspector" means building official.
- (3) "Building Official" means building inspector.

Section 4. Public Officer charged with administration of this Ordinance. The building inspector is hereby designated and appointed to exercise the powers assigned by this Ordinance and as specified herein. The building inspector may determine that a dwellings, building, structure or premises is unfit for human habitation or other use if said building inspector finds that conditions exist in the dwelling, building, structure or premises which are dangerous or injurious to the health or safety of the occupants of the dwelling, building, structure or premises, the occupants of the neighboring dwellings or premises, or other residents of the town. The conditions may include the following, but without limitations:

- (1) Foundation of a building is broken and will not adequately support the building;
- (2) The floor of the building, or a portion of said floor, is in such a condition that it will not adequately support traffic that would normally be in the building;
- (3) The roof is in such a state of disrepair that it will not keep the elements out of the building and is in such a condition that a strong wind could remove a portion of the building, thereby presenting a hazard;
- (4) One or more doors of the buildings are broken and cannot be secured;
- (5) One or more broken windows provide inadequate protection to the interior of the building or present a danger to those persons in or about said building;
- (6) The exterior of the building is in such a condition that it demonstrates a general dilapidated condition;
- (7) The lot contains uncovered cesspools, cellars or any other hole or obstruction that could pose a danger to people using the property;
- (8) Inadequate plumbing that, if uncared for, would result in a health hazard;
- (9) Inadequate wiring that presents a fire hazard and also inadequate wiring which has resulted in the power company refusing to furnish service;
- (10) Inadequate irrigation such that the yard has been allowed to dry to the extent that the vegetation presents a fire hazard to the property and to adjoining property; and
- (11) Accumulation of litter within the yard to the extent that such litter presents a fire hazard to the property or to the extent that such litter presents a danger to persons using said property, or, in conjunction with the appearance of the dwelling, buildings and other structures on the property, contributes to the property appearing to be in dilapidated condition.

Section 5. Repair in lieu of demolition. The building inspector shall determine whether the estimated cost of repairs is more than the value of the dwelling, building or structure situated on the premises. If the estimated cost of making such

repairs would be greater than said value, than what the value would be when the repairs are completed, then and in that event, the building inspector may require that the dwelling, building or structure be demolished. If the estimated cost of making said repairs are estimated to be less than what the value of the dwelling, building or structure would be when the repairs are completed, then and in that event, the building inspector may order that the said dwelling, building, structure or premises be repaired.

Section 6. Service of Complaint - Hearing Procedures. (A) If after a preliminary investigation of any dwelling, building, structure or premises, the building inspector finds that the same appear to be unfit for human habitation or other use, the building inspector shall cause to be served, either personally or by certified mail with return receipt requested, on all persons having any interest therein as shown upon the records of the Whitman County Auditor's Office or the Whitman County's Assessor's Office a complaint stating in what particulars the dwelling, building, structure or premises are unfit for human habitation or other use. If the whereabouts of any such person or persons is unknown and cannot be ascertained by the building inspector in the exercise of reasonable diligence, and if the building inspector makes an affidavit to that effect, then the serving of the complaint or order upon any such person or persons may be made by publishing such complaint once each week for two consecutive weeks in the Colfax Gazette, the official newspaper of the Town and by posting a copy of said notice in a conspicuous place on said premises.

(B) The complaint shall contain a notice that a hearing will be held before the building inspector at a place therein fixed, not less than 10 days or more than 30 days after the service of the complaint, or in the event of publication, not less than 15 days or more than 30 days from the date of the first publication.

(C) All parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise, and to give testimony at the time and place fixed in the complaint. Any party in interest may but need not be represented by legal counsel.

(D) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building inspector.

(E) A copy of the complaint shall also be filed with the Whitman County Auditor and the filing of the Complaint shall have the same force and effect as a lis pendens notice provided by law.

(F) If, after said hearing, the building inspector determines that the dwelling, building, structure or premises are unfit for human habitation, or that the said dwelling, building, structure or premises are unfit for other use, the building inspector shall state in writing such inspector's findings of fact in support of such determination, and shall issue and cause to be served upon the owner or party in interest thereof, as provided in subsection A of this Section 6 above, and shall post in a conspicuous place on said property, an order which (i) requires the owner or party in interest within the time specified in the order, to repair, alter or improve such dwelling, building, structure or premises to render them fit for human habitation, or for other 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 as required in Section 4; or (ii) requires the owner or party in interest within the time specified in the order to remove or demolish such dwelling, building, structure, or premises, if such course of action is deemed proper on the basis of said standards. If no appeal is filed as set forth in Section 7 below such order shall become final and a copy thereof shall be filed with the Auditor of Whitman County.

Section 7. Appeal. The owner or any party in interest, within 30 days from the date of service upon the owner or other party in interest and posting of an order issued by the building

inspector under the provisions set forth above may file an appeal with the appeals commission by filing a notice of appeal with the town clerk.

Section 8. Appeals Commission Procedures. (A) The Town Council shall constitute the appeals commission. As set forth below, the terms "town council" and "appeals commission" may be used interchangeably.

(B) All matters submitted to the appeals commission must be resolved by the appeals commission within 60 days from the date of filing the appeal set forth in Section 7 above, and a transcript of the findings of fact of the appeals commission shall be made available to the owner or party in interest upon demand. The notice of appeal shall state the names and addresses of all parties owning or having an interest in the property in question and of all parties who appeared at the hearing conducted by the building inspector as interested parties. All parties in interest shall be given notice of the time and place of the hearing of such appeal by mailing a copy of such notice to such parties at least 10 days prior to the hearing. Said notice shall be mailed to the addresses stated in the notice of appeal.

(C) The findings of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the building inspector, and shall be subject to review only in the manner and to the extent provided in this ordinance.

(D) Any party in interest may be but need not be represented by legal counsel before the appeals commission. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the appeals commission.

Section 9. Action by the Town. (A) If the owner or party in interest, following exhaustion of such party's rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove or demolish the building, dwelling, structure or premises, the building inspector may direct or cause such dwelling, building, structure or premises to be

repaired, altered, improved, vacated, closed, removed or demolished, as the condition of said dwelling, building, structure or premises shall require.

(B) The building inspector shall, within thirty (30) days after completion of such repairs, alterations, improvements, removal or demolition, and the disposition of materials as set forth in Sections 11 and 12 hereof file with the Town Clerk-Treasurer a statement of such costs and shall mail a copy thereof to all parties in interest within ten (10) days of such filing. Included within said costs but not in termination thereof shall be all attorney fees incurred by the Town in preparing notices and other documents required by this Ordinance, in consultation with the Town attorney by the building inspector, the Town Clerk-Treasurer, the Mayor or any other public official of the Town concerning or related to any matter pertaining to this Ordinance, together with any charges incurred by the Town as a result of the presence of the Town attorney at any hearing under this Ordinance, including but not limited to any hearing before the building inspector, the appeals commission, and any attorneys fees incurred by the Town as a result of the Town attorney preparing for and appearing in court on any action brought by any party in interest under this Ordinance.

(C) The building inspector's determination of the costs of such repairs, alterations, improvements, removal, demolition and disposal of materials shall be final unless a party in interest files written objections thereto with the Town Clerk-Treasurer. Any such objections shall state the basis of the objection and shall state the names and addresses of all parties in interest. Any such objection shall be heard by the Town Council, acting as the appeals commission. Said appeals commission shall determine the costs to be assessed against said property and shall enter findings of fact and conclusions of law and an order fixing said costs. Section 8 hereof shall govern the proceedings before the appeals commission on the determination of said costs to be assessed against the property. All parties in interest shall be given written notice of the time and place of hearing before the

appeals commission by the Town Clerk-Treasurer by mailing such notice to all parties in interest at least ten (10) days before the hearing.

(D) Any party in interest may but need not be represented by legal counsel before the appeals commission. The rules of evidence prevailing in courts of law or equity shall not be controlling before the appeals commission.

(E) The determination of such costs by the appeals commission shall be final unless a party in interest shall petition the Superior Court of Whitman County for a writ certiorari or for an injunction within thirty (30) days after the entry of said findings of fact and conclusions of law and order by the appeals commission, as set forth in Section 14 hereof.

Section 10. Assessment - Procedures. The amount of the cost of such repairs, alterations, improvements, vacating, closing, removal or demolition incurred by the Town as finally determined under Section 9 and Section 12 hereof shall be assessed against the real property upon which the costs were incurred, unless the amount has been previously paid. Upon certification of such costs to the county treasurer by the clerk-treasurer of the Town, the county treasurer shall enter the amount of the assessment upon the tax rolls against the property for the current year, whereupon such assessment shall become a part of the general taxes for that year to be collected at the same time and with interest at the rate and in the manner provided for in RCW 84.56.020, as amended, or as the same may hereafter be amended, for delinquent taxes; and when collected shall be deposited to the credit of the general fund of the Town.

Section 11. Sale of Demolished Building - Crediting of Proceeds. If the dwelling, building or structure is removed or demolished by the Town by order of the building inspector, the building inspector, shall, if possible, sell the materials from such dwelling, building or structure in accordance with procedures set forth in this Ordinance, and shall credit the proceeds of the sale against the costs of the repair, alteration, improve-

ment, vacation, closing, removal or demolition. Provided, a contract for the repair or demolition of any dwelling, building or structure may contain terms which provide for the repair or demolition contractor to keep said materials as a credit against the contract price for such repair or demolition. If there is any balance remaining following the sale of said materials, such balance shall be paid to the parties entitled thereto, as determined by the building inspector after deducting the costs incident thereto.

Section 12. Procedure for Sale of Materials. If, in the opinion of the building inspector, the materials from the demolished dwelling, building or structure have a value in excess of the costs of disposal thereof, the building inspector shall publish a notice of sale fixing the time and place for such sale, which notice shall be published in the Whitman County Gazette, the official newspaper of the Town, at least 10 days prior to the date fixed for said sale. The building inspector shall also mail a copy of said notice of sale to the owner of said property and to all persons having an interest therein at least 10 days prior to the date fixed for said sale. At the time and place fixed for said sale, the building inspector shall conduct said sale and shall sell the material described in the notice at public auction to the highest and best bidder for cash, and upon payment of the amount of such bid shall deliver said material to such bidder. The costs of said sale shall be included as a cost of repair, alteration, improvement, vacation, closing, removal or demolition, but the proceeds received from said sale shall be credited against such costs. In the event the building inspector determines that the value of such materials are less than the costs of the sale thereof, the building official shall arrange for the disposition of such materials by burning the same, if such can be done in a manner consistent with applicable laws and regulations, or by transporting such materials to a waste disposal site, as the building inspector shall determine. The cost of such disposal shall be added to and become a part of the costs to be assessed against the property.

Section 13. Assessment - Lien. The assessment against said real property, as finally fixed by order of the building inspector or, as applicable, the appeals commission, shall constitute a lien against the property in question of equal rank with state, county and municipal taxes.

Section 14. Petition for Certiorari or Injunction. Any person affected by an order issued by the appeals commission pursuant to this Ordinance may, within 30 days after the posting and service of the order of the appeals commission, petition to the superior court for a writ of certiorari or for an injunction restraining the building inspector from carrying out the provisions of the order. In the event of any such petition, further proceedings under this Ordinance shall be stayed pending the final order of the said superior court. In the event no such petition is filed within said 30 day period, the order of the appeals commission shall be final.

Section 15. Violation of this Ordinance Constitutes an Infraction. In addition to any civil remedies provided by law, including but not limited to those set forth in this Ordinance, failure to perform any act required by final order of the building inspector or, as applicable, the appeals commission; or the performance or commission of any act prohibited by this Ordinance, is hereby designated as a civil infraction and any person, firm or corporation found to have committed a civil infraction hereunder shall be assessed a monetary penalty, which penalty shall not exceed \$_____ for each infraction. Each date during which a violation of this Ordinance continues shall be deemed a separate infraction and separate penalties may be assessed for each separate infraction.

Section 16. Liability Not Imposed on the Town. This Ordinance is enacted as an exercise of the police power by the Town for the benefit of the public at large. It is not intended to create a special relationship with any individual, or in-

dividuals. Neither is this Ordinance intended to identify and protect any particular class of persons. The purpose of this Ordinance is to provide minimum standards to safeguard life, limbs, health, property, construction and public welfare by regulating and controlling buildings, dwellings, structures and premises. It is not the intent of this Ordinance to impose liability upon the Town or any of its officers, agents or employees, elected officials or council members, for failure to perform any discretionary act. Rather, it is the intent of this Ordinance to place the obligation of complying with the requirements hereof upon the owner or other party in interest of the property involved. Neither the Town, nor any officer, agent, employee, elected official or council member thereof shall incur or be held as assuming any liability by reason or in consequence of any permission certificate of inspection, inspection or approval authorized herein or issued or any order authorized herein or issued or given as herein provided, or by reasons or consequences of any things done or acts performed pursuant to the provisions of this Ordinance.

Section No. 17. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be illegal, invalid, unenforceable or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have approved this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of clauses or phrases that might be declared to be illegal, invalid, unenforceable or unconstitutional.

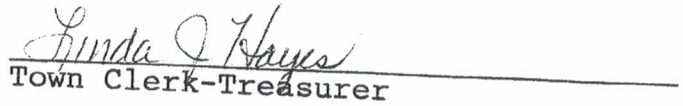
Section No. 18. Effective Date. This Ordinance shall become effective upon the publication hereof in the Whitman County Gazette, the legal newspaper of the Town of St. John.

PASSED by the Town Council of the Town of St. John on the
13th day of January, 1997 and signed in authen-
tication thereof this 15th day of January, 1997
by the Mayor and the Town Clerk-Treasurer.



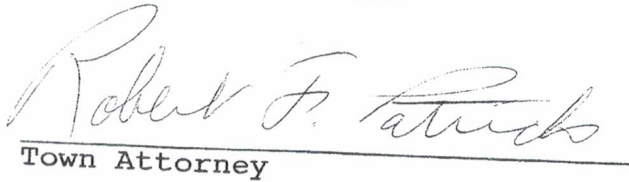
Mayor

ATTEST:



Town Clerk-Treasurer

APPROVED AS TO FORM:



Town Attorney