

BOARD OF COUNTY COMMISSIONERS
Grant County, Washington

**ORDINANCE RELATING TO THE
AMENDMENT OF CHAPTER 14.04 OF
THE GRANT COUNTY CODE
REGARDING ENFORCEMENT PROCEDURES
WITH AMENDMENTS OF CHAPTER 1 OF
THE PROPERTY MAINTENANCE CODE**

ORDINANCE No. 24 - 019 - CC

RECITALS:

WHEREAS, the Grant County Board of County Commissioners previously adopted Grant County Ordinance No. 21-012-CC for the purpose of replacing Chapter 14 of the Grant County Code; and

WHEREAS, RCW 36.43.030 allows the Board of County Commissioners to appoint inspectors to enforce its building and fire code regulations; and

WHEREAS, the International Property Maintenance Code is the enforceable document that regulates existing residential and nonresidential buildings and structures, which is adopted by reference in Chapter 14.04; and

WHEREAS, the proposed ordinance contains the necessary amendments to the administrative chapter (Chapter 1) of the Property Maintenance Code along with the proposed enforcement provisions in Grant County Code Chapter 14.04; and

WHEREAS, RCW 35.80 allows local governing bodies to adopt ordinances relating to the enforcement of dilapidated, unsafe, or unfit dwellings, buildings, and structures; and

WHEREAS, The Board of County Commissioners understands that the condemnation of blighted property is necessary per RCW 35.80A, and that dilapidated dwellings, buildings, and structures pose a serious impact to the peace, health, safety, and welfare of the community; and

WHEREAS, Development Services, building and fire divisions, finds that enforcement for the codes that they administer would be a more efficient and effective process; and

WHEREAS, the Hearing Examiner process affords a more streamlined, definitive path for the enforcement of building and fire regulations and would be less impactful on the Sheriff's Office, the Prosecuting Attorney's Office, and the Court system.

NOW, THEREFORE, BE IT HEREBY ORDAINED THAT the Grant County Board of Commissioners amends Chapter 14.04 of the Grant County Code as presented in Attachment A.

DATED this 27 day of February, 2024.

BOARD OF COUNTY
COMMISSIONERS
GRANT COUNTY, WASHINGTON

Yea Nay Abstain

☐ ☐ ☐

excused
Cindy Carter, Chair

☒ ☐ ☐

Danny E. Stone
Danny Stone, Vice-Chair

☒ ☐ ☐

Rob Jones
Rob Jones, Member

ATTEST:
Barbara J. Vasquez
Barbara J. Vasquez, CMC
Clerk of the Board

ATTACHMENT A

Publisher Note: This entire document is part of Chapter 14.04.070 GCC. The Property Maintenance Code Sections, identified by [A], are specific requirements from the Administrative Chapter 1 of the Property Maintenance Code adopted in Grant County Code Section 14.04.060.

[A] Sections - International Property Maintenance Code

SCOPE AND APPLICATION

[A] 103.1 Creation of Agency

Grant County Development Services is the agency in charge thereof and the function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.

[A] 101.2 Scope

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, and equipment. The responsibility of owners, an owner's authorized agent, operators and occupants and the occupancy of existing structures and premises, and the administration, enforcement, and penalties.

GRANT COUNTY CODE (GCC) ENFORCEMENT PROCEDURES

14.04.070 - Enforcement procedures.

The procedures for issuance of notices of violation, ~~citations~~, hearings, assessments, and payments of monetary penalties shall be in accordance with the provisions of the International Property Maintenance Code, Chapter 14.04 GCC, Title 15 GCC, and also includes failure to obtain required permits and/or failure to comply with a Stop Work Order as provided for in GCC 1.32 (1) and (6).~~Chapter 1.32 Grant County Code.~~

14.04.080 – Purpose.

The purpose of the enforcement procedures found in this chapter is to establish an efficient system to enforce the provisions of the Property Maintenance Code (PMC) and the adopted codes and procedures enumerated in GCC 14.04 and GCC Title 15 for the benefit of public health, safety, welfare, and environment. To achieve this purpose, this chapter provides procedures for:

1. Efficient notice and opportunities to correct violations of this chapter;
2. Progressive monetary penalties proportionate to the violation;
3. Contesting a Notice of Violation or Emergency Order;

- 4. Collecting civil penalties;
- 5. Abatement/Demolitions of violations;
- 6. Property Liens; and
- 7. Appeals.

14.04.090 – Applicability.

This chapter applies to violations of the Property Maintenance Code, which is adopted by reference in GCC Section 14.04.060; Stop Work Orders for failure to obtain appropriate permits per the adopted codes referenced in GCC 14.04.030, GCC Title 15, or violations of conditions or requirements of issued permits.

14.04.100 – Remedies not exclusive.

The remedies set forth in this chapter are not exclusive, and do not limit or restrict the authority of the county to pursue any other remedy available by law, including but not limited to remedying or abating violations.

14.04.110 – Definitions.

“Abate” means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a code violation by such means, in such a manner and to such an extent as the code official determines is necessary in the interest of the general health, safety and welfare of the community.

“Administrative Official” means the Building Official and Fire Marshal or their designee.

“Code Official” means the individual empowered to compel compliance with those laws, regulations, and permits over which the county has authority.

“Hearing Examiner” means a hearing examiner appointed by the county to hear and decide appeals of the adopted codes in Chapter 14.04.

“Notice of Violation” means the instrument that identifies that a violation of this Chapter exists and is issued to the responsible party(s); the charging document and notice of violation initiating enforcement proceedings, as described in Chapter 1 of the adopted codes.

“Responsible Party” means the owner(s) or person(s) in control of the property at issue.

“Violation” means an act or omission contrary to a law, regulation, or permit as it relates to the building and fire codes for all residential and nonresidential structures regulated by the Scope of the Property Maintenance Code or other code adopted by reference.

“Voluntary Compliance” means the responsible party for the violation concedes that a violation exists and voluntarily agrees to rectify the violation to the subjective satisfaction

of the relevant Code Official within a specified time. The Voluntary Compliance phase is the first step in the enforcement process.

“Voluntary Compliance Agreement (VCA)” means a signed agreement between the code official and the responsible party detailing a remediation plan and timeline to voluntarily correct the violation(s).

“Written complaint” means a complaint received by the county from an aggrieved person or employee alleging that a violation of a regulation has occurred.

[A] 105.5 Notices and Orders

The code official shall issue necessary notices or orders to ensure compliance with this code.

Section 109 Violations

[A] 109.1 Unlawful Acts

It shall be unlawful for any person, firm, or corporation to repair, alter, extend, add, move, remove, demolish, or change the occupancy of any building or equipment regulated by this code or cause same to be done in conflict with or in violation of any of the provisions of this code.

14.04.120 – Enforcement procedures.

The procedures for issuance of Notice of Violations, Emergency Orders, hearings, assessments, and payment of monetary penalties shall be in accordance with the provisions of this Chapter.

1. Action on a specific violation of the adopted codes may be initiated by a citizen or employee complaint to the county or by observation of a life, safety, or health violation by an employee. The responsible party will be notified of the violation and first be given an opportunity to correct or abate the violation through Voluntary Compliance. Failure to correct or abate the violation within the specified time period may result in formal corrective action and/or abatement by the county. The enforcement process is as follows:

a. A complaint is received and/or observed and the code official investigates to determine whether or not a violation exists.

b. If a violation exists, the code official notifies the responsible party. The responsible party may decide to abate or remedy the violation voluntarily and may enter into a Voluntary Compliance Agreement (VCA) with the county. The VCA will allow a minimum of thirty (30) days for compliance, which may be extended upon determination of the code official that reasonable progress is being made. In no case shall the VCA be extended a period to exceed 6-months.

c. If the violation(s) is not corrected, abated, or remedied within the time indicated within the Voluntary Compliance Letter or the agreed upon timeframe within the VCA the enforcement is escalated to formal corrective action including but not limited to the issuance of a Notice of Violation and/or abatement by the county.

d. The person responsible for the violation(s) has the option to appeal the Notice of Violation to the Hearing Examiner.

e. If the violation(s) has not been corrected, abated, or remedied within the terms of the Notice of Violation/ Order, the county may abate the violation and pursue legal action to recoup the costs incurred through the County Hearing Examiner process.

f. The final step in the enforcement process is the Final Order Hearing by the Hearing Examiner. This is a Noticed Public Hearing where the Hearing Examiner may affirm that the violation(s) exists and order the abatement thereof, including any applicable monetary penalties (fines) that are owed by the responsible party.

2. During the enforcement process, the county makes every effort to work with the person responsible for the violation(s) to establish a successful compliance plan (voluntary compliance agreement). The goal of the enforcement program is to achieve compliance. When compliance has been achieved to the satisfaction of the department, the case will be closed.

[A] 105.3 Right of Entry

Where it is necessary to make an inspection to enforce the provisions of this code, or where the code official has reasonable cause to believe that there exists in a structure or on a premises a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, dangerous, or hazardous, the code official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the code official shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

14.04.130 – Right of entry.

1. Any entry made to private property for the purpose of inspection for code violations pursuant to this chapter shall conform with constitutional and statutory constraints of entry, and the holdings of relevant court cases regarding entry. The code official is authorized to enter upon any property for the purpose of administering this

chapter provided the code official shall make entry only if such entry is consistent with the constitutions and laws of the United States and the State of Washington.

[A] 109.2 Notice of Violation

The code official is authorized to serve a notice of violation or order on the person responsible for the repair, alteration, extension, addition, moving, removal, demolition, or change in the occupancy of a building in violation of the provisions of this code or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] 109.4 Violation Penalties

Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who repairs or alters or changes the occupancy of a building or structure in violation of the approved construction documents or directive of the code official or of a permit or certificate issued under the provisions of this code shall be subject to penalties as prescribed by law.

Section 111 Unsafe Structures and Equipment

[A] 111.1 Conditions

Buildings, structures, or equipment that are or hereafter become unsafe, shall be taken down, removed, or made safe as the code official deems necessary and as provided for in this code.

[A] 111.1 Unsafe Structures

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect occupants. The structure is so damaged, decayed, dilapidated, structurally unsafe that partial or complete collapse is possible.

[A] 111.1.2 Unsafe Equipment

Unsafe equipment includes any boiler, heating equipment, elevator, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or occupants of the premises or structure.

[A] 111.4 Notice

If an unsafe condition is found, the code official shall serve on the owner, the owner's authorized agent or person in control of the structure a written notice that describes the

condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe building to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the code official acceptance or rejection of the terms of the order.

14.04.140 – General enforcement authority.

The code official has the authority to gain compliance with the provisions of this chapter. This authority includes the power to implement voluntary compliance, issue notices of violation, inspect property, implement administrative remedies, assess fines, condemn structures and equipment, and proceed with levying property liens where permitted by this chapter.

14.04.150 – Voluntary compliance.

1. This section applies whenever the code official determines that a violation of this chapter has occurred or is occurring:

a. The code official shall attempt to secure voluntary compliance by notifying the responsible party in writing, evidenced by proof of service. This notice shall include an explanation of the violation, and a request for corrective action. Any contact shall be documented in writing in the department's case management system, in a report signed under penalty of perjury, or otherwise evidenced by retaining copies of any written contact in such case management system.

2. The code official may request the person responsible for the violation to enter into a voluntary compliance agreement. (VCA). The VCA allows for an agreed upon timeframe that is realistic to abate the violation(s). The VCA shall allow 30-days minimum for compliance and may be extended if there is reasonable progress being made, which will be determined by the code official. The VCA shall include the following information:

a. The address and parcel number of the violation;

b. The name, address, and parcel number of the person responsible for the violation, if different from the location of the violation;

c. A description of the violation(s) and a reference to the applicable code section being violated;

d. The necessary corrective action to be taken and a date and time by which the corrective action must be completed;

e. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to, criminal prosecution, civil injunction, administrative abatement, civil penalties, revocation of permit, issuance of a citation and the withholding of future county permits;

f. An agreement by the responsible party that the county may abate the violation and recover its costs and expenses and/or monetary penalty pursuant to this chapter for the violation if the agreement is violated and

g. Waiver of entering party's right to appeal the required corrective action upon entry.

14.04.160 Notice of Violation (NOV).

1. When the code official determines that a violation has occurred and is unable to secure voluntary compliance, the code official shall issue a Notice of Violation to the responsible party. The NOV is a final determination by the code official that a violation exists, and monetary penalties will be assessed.

2. The code official may issue an NOV without having attempted to secure voluntary compliance under the following circumstances:

a. When an emergency exists;

b. When a repeat violation occurs;

c. When the violation creates a situation or condition which cannot be corrected.

3. The NOV shall include the following information:

a. The name, address, and parcel number of the responsible party for the violation(s);

b. The address and parcel number where the violation has occurred or is occurring, if different;

c. The date of the violation;

d. A description of each violation and a reference to the provisions of the code that is being violated;

e. The required correction action and a date and time the correction must be completed;

f. A description of the options to respond to the NOV;

g. The applicable monetary penalty being imposed in accordance with GCC 14.04.210 if the violation is not remedied within the time frame allotted; and

h. A statement that the NOV represents a determination that a violation has been committed by the person named on the NOV and that failure to respond shall result in a finding of committed.

4. Service shall be provided in a manner consistent with the provisions of GCC 1.32.190.

[A] 111.5 Method of Service

Such notice shall be deemed properly served if a copy thereof is delivered to the owner or the owner's authorized agent personally; sent by certified or registered mail addressed to the owner or the owner's authorized agent at the last known address with the return receipt requested; or delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner on the owner's authorized agent or on the person responsible for the structure shall constitute service of notice on the owner.

14.04.170 – Response to a Notice of Violation.

1. Person(s) shall respond to the NOV within fourteen (14) calendar days from the date of service by one of the following means:

a. Paying the fine (monetary penalty) specified in the Citation, in which the case the record shall show a finding that the person cited committed the violation. Payment of the fine(s) does not relieve the person named in the NOV of the responsibility for correcting, abating, or stopping the violation.

b. Requesting a reduction of fines in writing and explaining the circumstances surrounding the commission of the violation(s). Conditions for the reduction of fines must be in accordance with GCC 14.04.220. A request for a reduction of fines shall include address and contact information for the person cited and making said request.

c. Requesting an appeal of the Notice of Violation in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing a mailing address to which notice of such hearing may be sent.

[A] 111.6 Hearing

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, on petition directed to the appeals board, be afforded a hearing as described in this code.

14.04.180 Final Order Hearing.

1. Failure to respond to the Notice of Violation within fourteen (14) days as outlined in GCC Section 14.04.170 shall constitute a public hearing before the Hearing Examiner to determine the final order of the Hearing Examiner.

a. When the Hearing Examiner renders a decision, the Hearing Examiner shall make and enter findings from the record and conclusions thereof, which support such decision, and the findings and conclusions shall set forth and demonstrate the manner in which the decision carries out the intent of this code.

b. All decisions of the Hearing Examiner shall be rendered within ten (10) working days following the conclusion of all testimony and hearings. The Department shall distribute the notice of decision to the responsible party, in writing.

c. The Hearing Examiner's decision is considered the final order, and no further enforcement action is necessary to proceed with abatement of the violation.

d. Appeals of the Hearing Examiner's decision may be made by filing an appeal to superior court within twenty-one (21) days of the issuance of the hearing examiner's decision.

c. Any aggrieved party or agency that believes the final decision of the Hearing Examiner is unsound based upon errors in procedure, law interpretation of adopted policy, fact, judgment, or the discovery of new factual evidence which, by due diligence, could not have been found prior to the Hearing Examiner hearing may make a written request for reconsideration by the Hearing Examiner within fourteen (14) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Department on forms provided by the Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner; if the Hearing Examiner chooses to reconsider, he/she may revise the decision, as they deem appropriate, and may issue a revised record of decision within ten (10) days of the reconsideration heard by the Hearing Examiner. A request for reconsideration is not a prerequisite to an appeal.

14.04.190 – Appeals Hearing.

1. When Development Services receives an appeal of a Notice of Violation, the statement shall be transmitted to the Hearing Examiner within three (3) business days.

b. The hearing examiner shall conduct an appeal hearing within thirty (30) days of the date that the hearing examiner received the request for the hearing.

c. The department, on behalf of the hearing examiner, shall notify the person contesting the NOV and the department in writing of the time, place, and date of the hearing at least fifteen (15) days prior to the date of the hearing.

2. The department of Development Services has the burden of proof by a preponderance of the evidence to prove:

a. The person named on the NOV is the responsible party and/or the property owner; that said person caused the violation and/or allowed the violation to continue and

b. The violation(s) listed in the NOV occurred on the date/s listed in the order.

3. The appeal hearing shall be an open record public hearing conducted in accordance with the Grant County Hearing Examiner Rules of Procedure, except as modified by this chapter.

4. Each party to the infraction shall be allowed to:

a. Call, examine and cross examine witnesses matters relevant to the issues of the hearing; and

b. Introduce relevant documentary and physical evidence.

c. No testimony by the general public is permitted at the hearing. The only witnesses that will be allowed to testify are those called by the County or the Appellant.

5. The NOV containing the certified statement or declaration under penalty of perjury submitted by the code official, and any attached documentation and other evidence shall be prima facie evidence that a violation occurred, and that the person(s) cited are responsible. Any other certifications or declarations shall also be admissible without further evidentiary foundation.

6. The hearing examiner shall consider the evidence and testimony presented at the hearing and based on this information, shall enter a finding of committed or not committed. The decision shall be issued within ten (10) working days with an optional right of reconsideration per GCC Section 14.04.180 (c). Appeals of the Hearing Examiners decision may be made by filing an appeal to the superior court within twenty-one (21) days of issuance of the hearing examiner's decision.

7. The decision of the hearing examiner shall constitute a final decision and order per GCC 14.04.160(h).

14.04.200 – Failure to appear for an appeals hearing.

Failure to appear for a requested hearing will result in a finding of committed and assessing the fines specified in the NOV. For good cause shown and upon terms the hearing examiner finds just, the hearing examiner may set aside a decision entered upon a failure to appear.

[A] 111.6 Violation Penalties

Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who repairs or alters or changes the occupancy of a building or structure in violation of the approved construction documents or directive of the code official or of a permit or certificate issued under the provisions of this code shall be subject to penalties as prescribed by law.

14.04.210 – Monetary penalties and fees.

Monetary penalties, once applied, shall be assessed on each violation that is identified in the NOV and shall constitute a separate offense for each day the monetary penalty is not paid in full.

1. First offense is one hundred fifty dollar (\$150.00)

2. Second offense is three hundred dollars (\$300.00)

3. Third and subsequent offense is five hundred dollars (\$500.00)

14.04.220 – Mitigation of fines.

1. The Administrative Official may reduce fines assessed pursuant to GCC 14.04.200 if the violation is corrected within fourteen (14) days and is verified by the code official. A reduction shall be in writing and state the date on which the violation was corrected.

2. For reduction, the person(s) named shall have the burden of proof that the violation has been corrected and the date of correction, including verification by the code official.

3. Reduction of fines shall be 75% for a first offense or single violation or 50% for multiple violations on the same NOV or second single offense.

Section 113 Demolition

[A] 113.1 General

The code official shall order the owner or owner's authorized agent of any premises on which is located any structure that in the code official's judgment is so old or dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove to the owner's or the owner's authorized agent's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

[A] 113.3 Failure to Comply

If the owner or the owner's authorized agent of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate on which the structure is located and shall be a lien on such real estate.

14.04.230 – Demolition.

1. In addition to any other judicial or administrative remedy provided by this chapter or by law, the county may seek to abate through demolition per the International Property Maintenance Code Section 113.

2. The cost of the demolition, including administrative costs incurred as a result of the abatement, may be levied as a special assessment on the land or premises on which the violation is situated. This assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes, pursuant to RCW 36.32.120(10).

14.04.240 – Liens Generally.

1. The county shall have a lien imposed for the cost of any abatement work done pursuant to this chapter, against the real property on which the Notice of Violation and Demolition Order was imposed or any of the abatement work performed.

2. The cost of the abatement is also joint and several personal obligations of all persons in violation.

3. Any lien imposed by the county under this chapter shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens, except for state and county taxes, with which it shall be on parity.

14.04.250 – Liens Filing and Recording.

1. The administrative official shall cause a claim for lien to be filed for record in the auditor's office within ninety (90) days from the date of completion of the abatement work performed pursuant to this chapter.

2. The claim of lien shall contain the following:

a. The authority for proceeding to abate the violation;

b. A brief description of the abatement work done, including the violations charged and the duration thereof;

c. A legal description of the property to be charged with the lien;

d. The name of the known or reputed owner, and, if unknown, the fact shall be alleged; and

e. The amount, including lawful and reasonable costs, for which the lien is claimed.

2. The administrative official shall sign and verify the claim.

3. The claim of lien may be amended in case of action brought to foreclose the lien, by order of the court, as long as the interests of third parties are not detrimentally affected by amendment.

4. The auditor shall record and index the claims described in this chapter.

5. No lien created by this chapter binds the property subject to the lien for a period longer than three (3) years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.

14.04.260 - Lien Foreclosure.

1. The lien provided by this chapter may be foreclosed and enforced by a civil action in a court having jurisdiction.

2. All persons who have legally filed claims of liens against the same property prior to commencement of the action shall be joined as parties, either plaintiff or defendant.

3. Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another party to the suit who claims a lien.

14.04.270 – Duty Not Creating Liability.

No provision or term used in this chapter is intended to impose any duty upon the county or any of its officers or employees which would subject them to damages in a civil action.

14.04.280 – Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this chapter.

14.04.290 – Effective Date.

This ordinance shall take effect and be in full force and effect upon enactment.