

**CITY OF BINGEN  
ORDINANCE NO. 2013-05-615**

**AN ORDINANCE ADOPTING BINGEN MUNICIPAL CODE 10.35  
RAILROAD CROSSING CLOSURES**

**WHEREAS**, the City of Bingen has determined that procedures are necessary for proposals to close or remove any railroad crossing within the City of Bingen; and

**NOW, THEREFORE**, the City Council of the City of Bingen do ordain as follows:

Section 1. Bingen Municipal Code 10.35, Railroad Crossing Closures is hereby adopted to read as follows:

**Chapter 10.35**

**Sections:**

10.35.001     **Petition.**  
10.35.005     **Public hearing.**  
10.35.010     **Public notice.**  
10.35.015     **Notification to railroad and affected owners.**

10.35.001     **Petition.**

A.     Any railroad company operating in the City of Bingen which desires to close or remove a railroad crossing shall, no less than one hundred eighty (180) days before the date of proposed closing or removal, provide a written petition, sent by registered or certified mail, to the Bingen City Council and to the owner, or owners, of record, of the crossing proposed to be closed or removed and the owner, or owners, of record, of property adjoining that crossing. The petition shall state the manner in which such railroad crossing fails to promote public safety or economic development and how the retention of the crossing imposes unreasonable burdens on or substantially interferes with rail transportation.

B.     No railroad crossing located in the City of Bingen shall be closed or removed by any railroad company unless the evidence of record at a public hearing demonstrates that the closure or removal of the crossing is justified by public safety considerations and/or imposes

unreasonable burdens on, or substantially interferes with, rail transportation. If the evidence of record at the public hearing demonstrates that retention of the crossing is necessary to enhance public health and safety objectives, such as adequate access for emergency first responders or to facilitate future economic development in the City, the petition shall be denied.

C. The City of Bingen City Council shall publish the written request from the railroad company on the City of Bingen's website and in a newspaper of general circulation in the City of Bingen for no less than three weeks.

10.35.005 Public hearing.

A. No railroad crossing shall be closed or removed by any railroad company until after a public hearing by the City of Bingen City Council, at which hearing parties in interest have an opportunity to be heard.

B. Notice of the time and place of the hearing shall be published on the City of Bingen's website and in a newspaper of general circulation in the City of Bingen and at least fifteen (15) days shall elapse between the publication and the date of the hearing.

C. In addition to the notice by publication, and at least fifteen (15) days before the hearing, the City of Bingen shall make a good faith attempt to notify the owner, or owners, of record of the property where the crossing is located and the owner, or owners, of property adjoining that crossing, by sending an official notice by registered or certified mail of the time and place of the hearing to the address or addresses of such owner, or owners, as those addresses are indicated in the records of the City of Bingen.

D. The public hearing shall be held not less than sixty (60) days after receipt of the petition of the railroad company as provided in Section 10.35.001 of this Chapter.

10.35.010 Public notice.

A. Following such public hearing, the City of Bingen City Council shall publish notice of its decision on the City of Bingen's website and in a newspaper of general circulation in the City of Bingen.

B. The notice shall contain:

1. where the crossing is located and
2. the decision regarding retention of the crossing and any attendant conditions or, in the event of an authorized closure or removal, the manner in which such closure or removal shall be made, and the date of such closure.

10.35.015 Notification to railroad and affected owners.

A. Notice of the City of Bingen's City Council decision shall be provided by registered or certified mail to the railroad company and the owner, or owners, of record of the property where the crossing is located and the owner, or owners, of any property adjoining that crossing.

B. Such notice shall contain the decision regarding retention of the crossing and any attendant conditions or, in the event of an authorized closure or removal, the manner in which such closure or removal shall be made, and the date of such closure. In addition, such notice shall contain:

1. The date the decision was provided and the due date for an appeal, which date shall be no later than thirty-three (33) days after mailing of the notifications to the railroad company and the owner, or owners, of property as set forth in BMC 10.35.015 A.; and
2. A statement that the decision is final and any appeal must be pursued through Klickitat County Superior Court.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BINGEN, and effective five  
(5) days after the first date of posting or publication.**

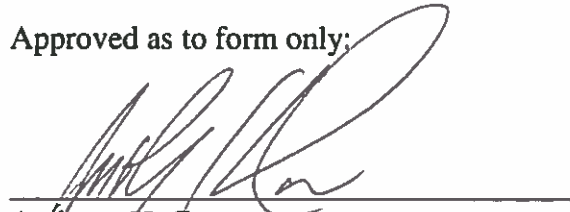
**DATED** this 2nd day of April, 2013.

**ATTEST:**

  
\_\_\_\_\_  
Mayor Betty J. Barnes

  
\_\_\_\_\_  
Jan Brending, City Clerk

Approved as to form only:

  
\_\_\_\_\_  
Anthony H. Connors  
City Attorney