
Planning Commission Meeting Date: December 19, 2013
Agenda Item

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Study Session on Enforcement of Chronic Nuisance Ordinance(Title 9) through Development Code (Title 20)		
DEPARTMENT:	Planning & Community Development		
PRESENTED BY:	Rachael Markle, AICP, Director		
<input type="checkbox"/> Public Hearing	<input checked="" type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation Only	
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other	

INTRODUCTION

The City Council will be considering the adoption of additions to Title 9 Public Peace, Morals and Welfare Chapter 9.10 Criminal Code in January 2014. The additions are intended to create a means to for the City to enforce protections against chronic nuisance properties. Part of the proposal includes amendments to Title 20 Development Code. The Chronic Nuisance Ordinance will be enforced using the procedures in SMC 20.30 Subchapter 9. Code Enforcement. While changes to Title 9 are not under the purview of the Planning Commission, amendments to Title 20 Development Code are.

BACKGROUND

In Shoreline, some property owners allow their properties to be used for unlawful criminal purposes or in a manner that otherwise violates Shoreline's Municipal Code. In some cases, the property owners allow these crimes and violations to occur repeatedly despite continued Police and Code Enforcement efforts. These types of properties are considered "Chronic Nuisance Properties."

Chronic nuisance properties present serious health, safety, and welfare concerns and interfere with the quality of life, comfort, and solitude of other persons residing in the neighborhood. Often the activities that occur at these properties result in numerous service calls to the police, fire and/or other City departments. The numerous service calls generated by chronic nuisance properties create a financial burden to the City and create a negative living environment for surrounding neighbors.

The City does not have laws in place that provide adequate tools to hold property owners responsible for correcting chronic nuisances when illegal activities and other code violations repeatedly occur on their property. A chronic nuisance property ordinance is an effective tool to address these chronic nuisance properties. Based on Shoreline's past history, staff estimates a chronic nuisance property ordinance maybe utilized to address one property per year.

Council's 2013-2015 Goals include a goal to "promote and enhance the City's safe community and neighborhood programs and initiatives." Council previously discussed the development of a chronic nuisance ordinance at the July 1, 2013 Council meeting

Approved By:**Project Manager** **Planning Director** _____

(Attachment A: July 1, 2013 Council Staff Report). This staff report is attached if the Planning Commission is interested, however the focus of this report is on changes to SMC Title 9, not SMC Title 20 Development Code. Staff is in the process of responding to the Council's request for additional analysis on the SMC Title 9 changes and will be returning for the follow up discussion with Council on January 6th.

PROPOSAL & ANALYSIS

Basic Overview of the Components of a Chronic Nuisance Ordinance

Staff reviewed the chronic nuisance regulations from the following cities: Renton, Burien, Everett, Seattle, Tacoma and Yakima. The composition of the regulations were largely the same. Each jurisdiction's ordinance includes the following components:

- A **definition** of what constitutes a chronic nuisance property;
- A listing or definition of **nuisances**; and
- Process for **enforcing and remedying** the chronic nuisance.

Definition of a Chronic Nuisance Property/Premises

The jurisdictions reviewed primarily define a chronic nuisance in terms of the number and type of nuisance activities that have occurred or exist within a defined time period.

Defining a Nuisance Activity

Each jurisdiction reviewed included in its chronic nuisance regulations a list or reference to conditions or violations of law that may contribute to a chronic nuisance. In general the lists include nuisances as defined in state law (RCW 7.48 and 9.66); the city's criminal, construction, land use, solid waste, fire, surface water, animal, and health codes; and state criminal laws.

Enforcement and Remedies

The act of repeatedly violating various City and State Codes becomes an enforceable violation itself with the adoption of a chronic nuisance ordinance. In most of the jurisdictions researched, enforcement is handled by their City's Police Department. Staff recommends a hybrid approach which mirrors how the city handles enforcement of other city codes. Staff suggests using the Police Department to make initial determination of a chronic nuisance property through and including the 5 basic steps outlined below. If the Police Department is unsuccessful in getting the owner or person in charge of the property to cooperate; then the police will refer the chronic nuisance property to the Code Enforcement division to be processed as a civil violation under SMC 20.30.

Basic Steps:

1. Police Officers or Code Enforcement Officer alert the Police Chief that a property appears to meet the definition of a chronic nuisance.
2. The city determines if a chronic nuisance exists using the definition of a chronic nuisance as criteria.
3. If the property is determined to be a chronic nuisance; the police department sends a letter to the property owner and/or person in charge informing them the property has been determined to be a chronic nuisance property. The person in charge includes but is not limited to an owner, lessee, tenant, occupant, agent, or

manager with control of the property. The letter will include a description of the nuisances and a demand for a meeting between the police department and property owner or person in charge within a limited time period (e.g., 10 days).

4. A successful meeting will result in a written agreement, contract or plan to abate the chronic nuisance within an agreed upon timeframe. (Note: abate the chronic nuisance may include the property owner agreeing to evict the tenants, adhering to a timeline supported by state law and the Police.)
5. If the agreement, contract or plan is fully implemented and the chronic nuisance is abated, then the process may stop here.

If the property owner or person in charge does not enter into and fully complete the contract or agreement with the Police Chief, then enforcement is proposed to be transferred to Code Enforcement. These steps, which are already codified in SMC Title 20 include:

1. A Notice and Order would be issued to all responsible parties informing them the property is a chronic nuisance property and is being declared a public nuisance.
2. The notice includes information on how to appeal the City's determination of a public nuisance. Appeals are heard before the Hearing Examiner.
3. The notice establishes a new timeline for entering into an agreement with the City to abate the nuisances.
4. If the property owner or person in charge fails to comply with the timeline stated in the Notice and Order, then civil penalties will apply. Note: the property owner will not pay any penalties if they abide by the agreement they sign with the code enforcement office or abate the nuisance within the timeframe specified.
5. If the agreement, contract or plan is fully implemented and the chronic nuisance is abated, the case is closed and the process may stop here.

If the property owner does not enter into and fully complete the contract or agreement made with the City through the Notice and Order; then enforcement progresses to the legal department. The City Attorney's Office would then ask for a judgment from Superior Court to order the property owner to abate the nuisances which in most of these cases translates into eviction, receivership or "shutting the property down" for a period established by the court. The City could also request the court to impose the civil penalties accrued and any other allowed costs on the property owner.

This transfer of responsibility from the Police Department to Code Enforcement is proposed to be codified by amending SMC 20.30.740 to include chronic nuisances:

20.30.740 Declaration of public nuisance, enforcement.

A. A code violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:

1. *Any City land use and development ordinances or public health ordinances;*

2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
3. Violation of any of the codes adopted in Chapter 15.05 SMC;
4. Violation of provisions of Chapter 12.15 SMC, Use of Right-of-Way;
5. Any accumulation of refuse, except as provided in Chapter 13.14 SMC, Solid Waste Code;
6. Nuisance vegetation;
7. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property;
8. Violation of any of the provisions of Chapter 13.10 SMC, Surface Water Utility; and
9. Violations of any of the provisions of Chapter 13.12 SMC, Floodplain Management.
10. Violations of any of the provisions of Chapter 9.25 SMC, Chronic Nuisance Property.

The highlighted amendment above is the primary subject of this study session and the Public Hearing to follow in February 2014. In accordance with SMC 20.30.070 Legislative Decisions, amendments to the Development Code require the Planning Commission to hold a Public Hearing and provide the City Council with a recommendation prior to the Council's decision. *Note: The proposed amendments to Title 9 are discussed and included in this staff report as background for why the amendment is being proposed to SMC 20.30.740 and are not subject to the procedures set forth in SMC 20.30.070.*

State Environmental Protection Act (SEPA)

The Development Code amendment for enforcement of chronic nuisances is exempt from SEPA review as listed under WAC 197-11-800(19) Procedural actions. Section 19 states, "The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt".

TIMING AND SCHEDULE

- City Council Study Session: Chronic Nuisance Ordinance Introduction-July 1, 2013
- Planning Commission Study Session: Amendments to Title 20- December 19, 2013

- City Council Study Session: Amendments to Title 9 & 20 – January 6, 2014
- Planning Commission Public Hearing: Amendments to Title 20 – February 6, 2014
- City Council Adoption: Amendments to Title 9 & 20 – February 24, 2014

RECOMMENDATION

No action is required. Staff recommends the Planning Commission use this session to ask clarifying questions and identify any additional data or analysis needed to formulate a recommendation following the Public Hearing in February 2014.

ATTACHMENTS

Attachment A – July 1, 2013 City Council Staff Report

Council Meeting Date: July 1, 2013

Agenda Item: 9(a)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Chronic Nuisance Property Regulations
DEPARTMENT:	Planning and Community Development
PRESENTED BY:	Rachael Markle, Director Kristie Anderson, Code Enforcement Officer Katie Larsen, Sergeant Shoreline Police Department Kevin Fagerstrom, Code Enforcement Supervisor, City of Everett Police Department
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Currently the City does not have regulations that hold property owners responsible for violations when such activities repeatedly occur on their property. These properties are characterized as presenting significant health, safety and welfare concerns. A chronic nuisance ordinance is a tool that several area jurisdictions have employed to effectively eliminate repeat violations.

In light of citizen concern for safe communities, Council may wish to consider the development of a chronic nuisance ordinance for Shoreline. A chronic nuisance ordinance would allow a combined effort between City, police, and fire operations to take action when a neighborhood is negatively impacted by repeated violations by a neighboring home. The recent experience with the Cook house in the Meridian Park neighborhood acted as an example of what would qualify as a chronic nuisance property and a catalyst for pursuing local development of a chronic nuisance ordinance.

RESOURCE/FINANCIAL IMPACT:

Staff resources would be expended to develop the chronic nuisance ordinance.

RECOMMENDATION

There is no formal action required by Council this evening. Staff recommends that Council direct staff to develop a chronic nuisance property ordinance, that would declare the act of repeatedly creating or maintaining nuisance as a separate violation of the Shoreline Municipal Code.

Approved By: City Manager ____ City Attorney ____

INTRODUCTION

In Shoreline, some property owners allow their properties to be used for unlawful criminal purposes or in a manner that otherwise violates Shoreline's Municipal Code. In some cases, the property owners allow these crimes and violations to occur repeatedly despite continued Police and Code Enforcement efforts. These types of properties are considered "Chronic Nuisance Properties."

Chronic nuisance properties present serious health, safety, and welfare concerns and interfere with the quality of life, comfort, and solitude of other persons residing in the neighborhood. Often times the activities that occur at these properties result in numerous service calls to the police, fire and/or City departments. The numerous service calls generated by chronic nuisance properties create a financial burden to the City and create a negative living environment for surrounding neighbors.

The City's Property Maintenance Code (SMC 15.05.010.K) and the Development Code (SMC 20.30.740) hold property owners responsible for maintenance of their property with regard to buildings, accumulation of junk/debris, auto repair and vehicle storage, among other conditions, but does not cover many illegal activities. State law holds property owners responsible when the public nuisance is drug related. Drug nuisance abatement is strictly limited to activities outlined in RCW Title 69. Sites staff refer to as chronic nuisances properties do not always have the elements identified in RCW Title 69, therefore not allowing drug nuisance abatement, or sometimes there is both drug activity and other non drug related violations that interfere with the quality of life of other persons in the neighborhood. Some examples of violations Police and City staff have encountered in past incidences of chronic problem properties include weapon violations, prostitution, assault, disorderly conduct, harassment, fraud related offenses, and stolen property.

The City does not have laws in place that provide adequate tools to hold property owners responsible for correcting chronic nuisances when illegal activities and other code violations repeatedly occur on their property. A chronic nuisance property ordinance is an effective tool to address these chronic nuisance properties. Past history indicates that the City will not need to use it often, but when property owners repeatedly allow occupants to break the law and violate City codes, it is a tool that other jurisdictions are using to hold property owners accountable. Based on historical incidents, staff estimates a chronic nuisance property ordinance maybe utilized to address one property per year.

BACKGROUND

Council has not previously discussed the development of a chronic nuisance ordinance. Council's 2013-2015 Goals include a goal to "promote and enhance the City's safe community and neighborhood programs and initiatives." In response to repeated occurrences of criminal activity at 1331 N 169th Street (the Cook property) Council has expressed concern and a desire to do more to protect its residents from such harms.

DISCUSSION

Components of a Chronic Nuisance Ordinance

Staff reviewed the chronic nuisance regulations from the following cities: Renton, Burien, Everett, Seattle, Tacoma and Yakima (Attachments A-F). The composition of the regulations was largely the same. Each jurisdiction's ordinance includes the following components:

- A **definition** of what constitutes a chronic nuisance property;
- A listing or definition of **nuisances**; and
- Process for **enforcing and remedying** the chronic nuisance.

Definition of a Chronic Nuisance Property/Premises

The jurisdictions reviewed primarily define a chronic nuisance in terms of the number and type of nuisance activities that have occurred or exist within a defined time period. For example, Burien defines a chronic nuisance property as one on which any combination of three or more nuisance activities occur or exist during any 60 day period.

The City of Seattle defines a chronic nuisance property as:

- a property on which three or more nuisance activities exist or have occurred during any sixty-day period or seven or more nuisance activities have occurred during any twelve-month period, or
- a property which, upon a request for execution of a search warrant, has been the subject of a determination by a court two or more times within a twelve-month period that probable cause exists that illegal possession, manufacture or delivery of a controlled substance or related offenses has occurred on the property.

Some jurisdictions limit the application of the regulations to businesses such as hotel/motels and apartments and other jurisdictions broadly apply the regulations to all property. The cities of Everett and Burien extend the definition of a chronic nuisance property to include occurrences of nuisances near a property perpetrated by someone associated with the property.

A next step for Shoreline in developing its own ordinance would be to define chronic nuisance property/premises. Staff initially recommends defining chronic nuisance properties/premises as: applying to all properties not just commercial properties; and similarly to the City of Seattle keeping a "running" tally of number of occurrences of nuisances on a property over a range of time frames to avoid resetting the count too soon to be effective.

Each jurisdiction reviewed includes in its chronic nuisance regulations a list or reference to a condition or violation of law that may contribute to a chronic nuisance. In general the lists include nuisances as defined in state law (RCW 7.48 and 9.66); the city's municipal code, criminal, construction, zoning, solid waste, fire, surface water, animal, and health codes; and state criminal laws. Some examples typically listed include:

1. Unlawfully manufacturing, delivering, selling, storing or giving away any controlled substance as defined in Chapters 69.41, 69.50 and 69.52 RCW;

2. Unlawful use of firearm or deadly weapon (RCW 7.48.155);
3. Criminal solicitation (RCW 9A.28.030);
4. Homicide (Chapter 9A.32 RCW);
5. Assault (Chapter 9A.36 RCW);
6. Sex offenses (Chapter 9A.44 RCW);
7. Harassment (Chapter 9A.46 RCW);
8. Arson & malicious mischief (Chapter 9A.48 RCW);
9. Burglary & trespass (Chapter 9A.52 RCW);
10. Theft & robbery (Chapter 9A.56 RCW);
11. Prostitution (Chapter 9A.88 RCW);
12. Identity crimes (Chapter 9.35 RCW);
13. Firearms & dangerous weapons (Chapter 9.41 RCW);
14. Accumulation of refuse;
15. Violations of such codes as defined in SMC 20.30.740 (*includes Development Code, King County Health codes, Building and Construction codes, Fire code, Property Maintenance code, and Solid Waste code*);
16. Dangerous animals or cruelty to animals;
17. Disorderly conduct; and
18. Gang activity.

Shoreline's current definition of nuisance in its code enforcement chapter focuses on public nuisance related to land use (Attachment G - SMC 20.30.740). If Shoreline proceeds with the development of a chronic nuisance ordinance, the City will need to ensure the definition (as used in the chronic nuisance ordinance) is more expansive, to cover the types of criminal activity set forth above.

Enforcement and Remedies

The act of repeatedly violating various City and State Codes becomes an enforceable violation itself with the adoption of a chronic nuisance ordinance. In most of the jurisdictions researched thus far, enforcement is handled by the Police Department. At this point, staff suggests a hybrid approach if Council directs staff to develop a chronic nuisance ordinance. Staff suggests using the Police Department to make initial contact and, if that is unsuccessful, passing the enforcement over to the Code Enforcement division to be processed as a Notice of Violation and Order to Correct.

Basic Steps:

1. Code Enforcement Officer or Police Officers alert Police Chief that a property appears to meet the definition of a chronic nuisance.
2. Police Chief determines if a chronic nuisance exists.

3. Police Chief sends a letter to the property owner that property is being declared a chronic nuisance property. The letter includes a description of the nuisances and a demand for a written response from the property owner within a short time period (e.g., 10 days).
4. The response is a written agreement, contract or plan to abate the chronic nuisance within an agreed upon timeframe (Note: abate the chronic nuisance generally means the property owner agrees to evict the tenants adhering to a timeline supported by state law and the Police.)
5. If the agreement, contract or plan is fully implemented and the chronic nuisance is abated, then the process may stop here.

If the property owner does not enter into and fully complete the implementation of a contract or agreement with the Police Chief, then staff is suggesting that continued enforcement be handled through the City's existing Notice and Order process.

A Notice and Order would be issued which includes the same information as the warning letter sent by the Police Chief. It also includes appeal information, penalties and a new timeline for abating the nuisances. If the property owner fails to comply with the Notice and Order, then enforcement progresses to the legal department. The City Attorney's Office would then ask for a judgment from Superior Court to order the property owner to abate the nuisances which in most of these cases translates into eviction, receivership or "shutting the property down" for a period of a year. The City could also request the court to impose the penalties accrued and any other allowed costs on the property owner.

Hands-on Experience

Kevin Fagerstrom, the Code Enforcement Supervisor for the Everett Police Department is scheduled to attend tonight's meeting to share with the Council his experience administering the City of Everett's chronic nuisance ordinance. Kevin served as a traffic sergeant with the Shoreline Police Department prior to retiring from the King County Sheriff's Department.

STAKEHOLDER OUTREACH

The City held a meeting with the neighbors within 500 feet of the Cook house at 1331 N 169th Street on June 5, 2013. The purpose of the meeting was to update the neighbors on the status of the arrests and the City's ongoing communications with the property owner, as well as to describe the tools provided by a chronic nuisance ordinance. Approximately 35 people attended the meeting; the group seemed supportive of the City pursuing regulations to address properties like the one in their neighborhood where there have been repeated police calls, arrests and other violations of Shoreline's regulations or criminal laws degrade the quality of life in the neighborhood.

COUNCIL GOAL(S) ADDRESSED

Goal 5: Promote and enhance the City's safe community and neighborhood programs and initiatives. Adoption and enforcement of a chronic nuisance ordinance would meet

Goal 5, alleviating citizen fears caused by the presence of repetitive illegal activity promulgated by residents or proprietors of a particular property.

RESOURCE/FINANCIAL IMPACT

Staff resources would be expended to develop the ordinance.

RECOMMENDATION

There is no formal action required by Council this evening. Staff recommends that Council direct staff to develop a chronic nuisance property ordinance that would declare the act of repeatedly creating or maintaining nuisance as a separate violation of the Shoreline Municipal Code.

ATTACHMENTS

Attachment A	City of Tacoma Chronic Nuisance Regulations
Attachment B	City of Seattle Chronic Nuisance Regulations
Attachment C	City of Everett Chronic Nuisance Regulations
Attachment D	City of Burien Chronic Nuisance Regulations
Attachment E	City of Renton Chronic Nuisance Regulations
Attachment F	City of Yakima Chronic Nuisance Regulations
Attachment G	Shoreline Municipal Code Chapter 20.30.740

TACOMA

Chapter 8.30A

CHRONIC PUBLIC NUISANCE

Sections:

- 8.30A.010 Scope.
- 8.30A.020 Purpose.
- 8.30A.030 Chronic nuisance property defined.
- 8.30A.040 Definitions.
- 8.30A.050 Violation.
- 8.30A.060 Process.
- 8.30A.070 Administrative reviews by the Director.
- 8.30A.080 Appeals to the Hearing Examiner.
- 8.30A.090 Abatement.
- 8.30A.100 Judicial action.
- 8.30A.110 Additional relief.
- 8.30A.120 Summary closure.
- 8.30A.130 Collection of judgments.
- 8.30A.131 Successive owners liable.
- 8.30A.132 Chronic nuisance does not become legal by prescription.
- 8.30A.140 Severability.

8.30A.010 Scope.

This chapter addresses chronic nuisance properties that are in violation of various chapters of the Tacoma Municipal Code (“TMC”) and continue to be unresolved by normal compliance methods therefore resulting in the necessary enactment of the provisions of this chapter. Chronic nuisance properties present grave health, safety, and welfare concerns, which the property owners or persons in charge of such properties have failed in taking corrective action to abate the nuisance condition. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety, and health of the neighborhoods where they are located. This chapter is enacted to remedy nuisance activities that repeatedly occur or exist at chronic nuisance properties by providing a process for abatement; and this remedy is not exclusive. Any remedy available under any state or local laws may be used in lieu of or in conjunction with the remedies under this chapter.

Also, chronic nuisance properties are a financial burden to the City by the repeated calls for service to the properties because of the nuisance activities that repeatedly occur or exist on such properties, and this chapter is a means to ameliorate those conditions and hold responsible the owners or persons in charge of such properties.
(Ord. 27153 § 1; passed Oct. 21, 2003)

8.30A.020 Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the residents of the general public by:

- A. Establishing standards for reducing criminal activity and improving building condition.
- B. Working in cooperation with property owners to develop a plan of action to accomplish these goals.
- C. Monitoring a plan of action to ensure the reduction of calls for service and building conditions improvements are sustained.
- D. Establishing due process by which property owners can appeal decisions if necessary.
- E. Establishing civil penalties for failure to comply with the plan of action.
- F. Establishing a judicial process to abate properties if necessary.

(Ord. 27153 § 1; passed Oct. 21, 2003)

8.30A.030 Chronic nuisance property defined.

A chronic nuisance property exists as a result of a property owner omitting to perform a duty or permitting an action or condition to occur or exist which intrudes on the ability of neighbors or citizens to use or enjoy their properties or public property adjacent to where the nuisance occurs. Such chronic nuisance properties include, but are not limited to:

A. Properties on which three or more nuisance activities occur or exist within any 60-day period. Nuisance activities include, but are not limited to, violation of the following laws and regulations:

Tacoma Municipal Code

(Revised 1/2013) 8-100 City Clerk's Office

TMC 3.12 Fireworks;

TMC 8.12 Disorderly Conduct;

TMC 8.13 Obstructing Pedestrians or Traffic;

TMC 8.20 Intoxicating Liquor;

TMC 8.28 Narcotics;

TMC 8.29 Drug Paraphernalia;

TMC 8.30 Nuisances;

TMC 8.32 Indecent Acts;

TMC 8.33 Urinating in Public;

TMC 8.46 Prostitution;

TMC 8.60 Unlawful Assembly;

TMC 8.66 Weapons;

TMC 8.67 Firearms;

TMC 8.72 Drug-related Loitering;

TMC 8.100 Gambling;

TMC 8.105 Domestic Violence;

TMC 8.106 Harassment;

TMC 8.108 Parking in Congested Areas;

TMC 8.109 Curfew Hours for Minors;

TMC 8.120 Graffiti;

TMC 8.122 Noise;

TMC 8.140 Regulation of Purchase/Sale of Ephedrine;

TMC 12.09 Solid Waste, Recycling and Hazardous Waste;

TMC 17 Animal Control;

International Fire Code;

Any similar violation of the Revised Code of Washington or the United States Code;

Gang-related activity, as defined in RCW 59.18.030; and

Alcoholic beverage control violations, as defined in RCW 66.44.

Any attempt to commit and/or conspiracy to commit any of the above activities, behaviors, or conduct shall also be considered a nuisance activity.

(Ord. 27904 Ex. A; passed Jul. 20, 2010; Ord. 27153 § 1; passed Oct. 21, 2003)

8.30A.040 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

1. "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable City department director, or designee, determines is necessary in the interest of the general health, safety, and welfare of the community.
2. "Control" means the ability to regulate, restrain, dominate, counteract, or govern property or conduct that occurs on a property.
3. "Director" shall include, but not be limited to, the chiefs of the Police Department or Fire Department, or directors of the Public Works Department, Finance Department, or Health Department. The director of the department may designate an individual to act in his or her stead.
4. "Drug-related activity" means any unlawful activity at a property which consists of the unlawful manufacture, delivery, sale, storage, possession, or giving away of any controlled substance, as defined in RCW 69.50; illegal drug, as defined in RCW 69.41; precursor drug, as defined in RCW 69.43; or imitation controlled substances, as defined in RCW 69.52.
5. "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and, in addition, means any person designated as a representative of the landlord.
6. "Owner" means any person having any interest in the real estate in question as indicated in the records of the office of the Pierce County Assessor, or who establishes, under this chapter, their ownership interest therein.
7. "Person" means natural person, joint venture, partnership, association, club, company, corporation, business trust, or organization or the manager, lessee, agent, officer, or employee of any of them. "Person associated with a

property” means any person who, on the occasion of a nuisance activity, has entered, patronized, or visited, or attempted to enter, patronize, or visit, or waited to enter, patronize, or visit a property or a person present on property, including, without limitation, any officer, director, customer, agent; or employee, or any independent contractor of a property; or a person in charge of or owner of a property.

8. “Person in charge” of a property means any person, in actual or constructive possession of a property, including, but not limited to, an owner, occupant, agent, or property manager of a property under his or her control.

9. “Premises” and “property” may be used by this chapter interchangeably and means any building, lot, parcel, dwelling, rental unit, real estate, or land, or portion thereof, including property used as residential or commercial property.

10. “Receiver” is a person appointed by a court or judicial officer to take charge of a property during the pending of a civil action or proceeding, or upon a judgment, decree, or order therein, and to manage and/or dispose of it as the court or officer may direct.

11. “Rental unit” means any structure or that part of a structure, including, but not limited to, a single family home, room, or apartment that is rented to another and used as a home, residence, or sleeping place by one or more persons.

8.30A.050 Violation.

A. Any property within the City that is a chronic nuisance property is in violation of this chapter and subject to its remedies.

B. Any owner or person in charge of a chronic nuisance property shall be in violation of this chapter and subject to its remedies. The person in charge and the owner are jointly liable for any chronic nuisance. Both the owner and person in charge are subject to the provisions and remedies of this chapter. Application of this chapter against one party does not preclude application to another party who is an owner or person in charge of a chronic nuisance property.

8.30A.060 Process.

A. The appropriate City department shall confirm the presence of a chronic nuisance property. If it is determined that the site is not a chronic nuisance, the case will be closed.

B. If it is determined that the site is a chronic nuisance, a Notice of Violation will be sent to the owner of the property and the person in charge of the property. The Notice of Violation shall contain:

1. The street address or a legal description sufficient for identification of the property;
2. A concise description of the nuisance activities that exist or that have occurred on the property;
3. A request that the owner or person in charge respond to the appropriate department within ten calendar days of service of the Notice of Violation to discuss the nuisance activities and create a plan to abate the chronic nuisance;
4. An offer to the owner or person in charge of an opportunity to abate the nuisance activities giving rise to the violation; and
5. A statement describing that if the owner and/or person in charge fails to develop or comply with a plan of action the property is subject to abatement and the owner and/or person in charge is responsible for civil penalties up to \$250 per day and that the owner and/or person in charge is responsible for the costs of municipal services after the Notice of Violation of the chronic nuisance property is received.

C. Such Notice of Violation shall be either (a) personally served or (b) delivered by first-class mail and certified mail, return receipt requested, to the person in charge of the property. If the person in charge of the property is not the owner, then a copy shall be served on the owner at the address indicated by the Pierce County Assessor in the manner described above.

D. If the owner or person in charge responds, as required by the Notice of Violation, and agrees to abate the nuisance activity, the appropriate department and the person in charge and/or property owner may work out an agreed upon plan of action which would abate the nuisance activity. If the owner and person in charge are different persons or entities, then both the owner and person in charge are required agree to the plan. If an agreed upon plan of action does not result in the abatement of the nuisance activities or if no agreement concerning abatement is reached, the owner and/or person in charge of the property is subject to civil penalties, suspension or revocation of his or her business license and registration, and any other remedy provided in this chapter. Up to three community stakeholders may be called upon by the appropriate director to participate in the review, negotiation, and monitoring of the action plan. One of the community stakeholders may be recommended by the property owner.

E. The plan of action may include, but not be limited to, items such as education for the owner or person in charge of the property, physical improvements for crime prevention, security for the property, and other items necessary to abate the chronic nuisance property. The plan must include specific time frames in which items will be completed.

F. The monetary penalties for violations of this chapter shall be as follows:

1. First civil penalty \$125

2. Second and subsequent civil penalties \$250

Civil penalties will continue to accumulate until the plan of action is in place or the nuisance conditions are abated.

Civil penalties may be imposed when a plan of action is in place if the owner and/or person in charge fails to adhere to the plan of action or if the chronic nuisance continues.

3. If the total assessed penalties exceed \$1,000, a Certificate of Complaint may be recorded with the Pierce County Auditor to be attached to the title of the property. A copy of the Certificate of Complaint shall be sent to the property owner and parties of interest if different from the owner.

4. If over \$1,000 in civil penalties are levied or if the property owner or person in charge fails to agree to or adhere to a plan of action, the full costs of municipal services may be charged to the owner.

G. If an owner or person in charge fails to develop or implement a plan of action or if the chronic nuisance continues, his or her business license may be suspended as follows:

1. If chronic nuisance activities continue or no plan of action is developed or implemented for thirty (30) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for seven (7) days.

2. If chronic nuisance activities continue or no plan of action is developed or implemented for sixty (60) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for fourteen (14) days.

3. If chronic nuisance activities continue or no plan of action is developed or implemented for ninety (90) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for thirty (30) days.

4. If chronic nuisance activities continue or no plan of action is developed or implemented for one hundred eighty (180) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for one (1) year.

5. Civil penalties may continue to accumulate during the periods of suspension.

H. Each day that a property or person is not in compliance with the provisions of this chapter is a separate violation of this chapter.

I. The remedies of this chapter are not exclusive and do not affect any other enforcement actions taken by the City under another section of the municipal code or law or enforcement actions taken by a different jurisdiction.

(Ord. 27904 Ex. A; passed Jul. 20, 2010; Ord. 27153 § 1; passed Oct. 21, 2003)

8.30A.070 Administrative reviews by the Director.

A. General. A person, firm, or corporation to whom a Notice of Violation for a chronic nuisance(s) or a civil penalty is assessed may request an administrative review of the Notice of Violation or the civil penalty.

B. How to Request an Administrative Review. A person, firm, or corporation may request an administrative review of the Notice of Violation or for a civil penalty by filing a written request with the director of finance or his or her designee within ten calendar days of the notification date of violations or the date the civil penalty is assessed. The request shall state, in writing, the reasons the director should review the Notice of Violation or the issuance of the civil penalty. Failure to state the basis for the review, in writing, shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the director shall review the information provided.

C. Decision of the Director. After considering all of the information provided, the director shall, within three business days of the request for administrative review, determine whether a violation has occurred and shall affirm, vacate, suspend, or modify the Notice of Violation for the nuisance(s) or the amount of any monetary penalty assessed. The director's decision shall be either (a) personally served or (b) delivered by first class mail and certified mail, return receipt requested, to the person requesting the review, with a copy mailed to the owner or person in charge, if different from the person requesting review.

8.30A.080 Appeals to the Hearing Examiner.

A. Appeals of the director's decision shall be made in writing to the Hearing Examiner within ten calendar days of the mailing or personal service of the director's decision. The written appeal must set forth the grounds for the appeal. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of

a properly filed appeal, the Hearing Examiner shall set a hearing date and the appellant shall be notified of the hearing date by either (a) personal service or (b) delivery by first-class mail and certified mail, return receipt requested, to the appellant, with a copy mailed to the owner at the address indicated by the Pierce County Assessor if different than the appellant.

B. Hearings shall be conducted in accordance with TMC 1.23 and the Hearing Examiner's Rules of Procedure.

C. The Hearing Examiner shall issue a Findings of Fact and Order based on the hearing, in writing, delivered to the appellant by first-class mail and certified mail, return receipt requested.

8.30A.090 Abatement.

After an enforcement action is taken and civil penalties have been assessed in excess of \$1,000, the property is subject to abatement by the City in the manner authorized by law.

8.30A.100 Judicial action.

A. The City Attorney may initiate legal action on the chronic nuisance property and seek abatement of the nuisance in Pierce County Superior Court.

B. In determining whether a property shall be deemed a chronic nuisance property and subject to the court's jurisdiction, the City shall have the initial burden of proof to show, by a preponderance of the evidence, that the property is a chronic nuisance property. The failure to prosecute an individual, or the fact no one has been convicted of a crime, is not a defense to a chronic nuisance action.

C. Once the court determines the property to be a chronic nuisance under this chapter, the court may order any relief deemed appropriate to abate the chronic nuisance activity.

D. If the court determines the property to be a chronic nuisance property, the court may order the property to be abated by the City or may order the property into a receivership, in accordance with RCW 7.60.

E. Once a determination has been made by the court that the chronic nuisance property is subject to abatement, the court may authorize the City to physically abate the property. Costs for such abatement shall be submitted to the court for review. Reasonable costs of abatement may be assessed against the property owner. The City shall file a formal lis pendens notice when an action for abatement is filed in the Pierce County Superior Court.

F. If the court orders the property into a receivership, the court shall appoint a receiver and shall define the terms of the receivership based on the recommendations provided by the City.

G. Pierce County Superior Court shall retain jurisdiction during any period of closure or abatement of the property.

8.30A.110 Additional relief.

The director may seek any legal or equitable relief, such as utilization of RCW 9.66, 7.48, or 7.48A, or Chapter 8.30 TMC at any time to mitigate violations referenced in TMC 8.30A.030. The director of finance may also suspend or revoke the business license of the property owner, person in charge, or both.

8.30A.120 Summary closure.

Nothing in this chapter prohibits the City from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public health or safety. The City may take summary action to close the property without complying with the notification provisions of TMC 8.30A.030, but shall provide such notice as is reasonable under the circumstances.

8.30A.130 Collection of judgments.

If the person cited fails to pay a penalty imposed pursuant to this chapter, the penalty costs and costs for municipal services may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed upon between the City and the collection agency, and added to the judgment. Alternatively, the City may pursue collection in any other manner allowed by law.

8.30A.131 Successive owners liable.

Every successive owner of property, or person in charge, who neglects to abate a continuing chronic nuisance upon, or in the use of such property caused by a former owner, is liable therefor in the same manner as the one who first created it.

8.30A.132 Chronic nuisance does not become legal by prescription.

No lapse of time can legalize a chronic nuisance.

8.30A.140 Severability.

If any portion of this ordinance, or its application to any person or circumstances, is held invalid, the validity of the ordinance as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

(end of Tacoma)

Title 10 - HEALTH AND SAFETY
Chapter 10.09 - CHRONIC NUISANCE PROPERTIES

SEATTLE

Title 10 - HEALTH AND SAFETY
Chapter 10.09 - CHRONIC NUISANCE PROPERTIES

10.09.010 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

1. "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the Chief of Police determines is necessary in the interest of the general health, safety and welfare of the community.
2. "Chief of Police" means the Chief of Police or his or her designees.
3. "Control" means the power or ability to direct or determine conditions, conduct, or events occurring on a property.
4. "Chronic nuisance property" means:
 - a. a property on which three or more nuisance activities as described in SMC 10.09.010(5) exist or have occurred during any sixty-day period or seven or more nuisance activities have occurred during any twelve-month period, or
 - b. a property which, upon a request for execution of a search warrant, has been the subject of a determination by a court two or more times within a twelve-month period that probable cause exists that illegal possession, manufacture or delivery of a controlled substance or related offenses as defined in RCW Chapter 69.50 has occurred on the property.
5. "Nuisance activity" includes:
 - a. a "most serious offense" as defined in ch. RCW 9.94A;
 - b. a "drug related activity" as defined in RCW 59.18.130;
 - c. any of the following activities, behaviors or criminal conduct:
 1. Assault, Fighting, Menacing, Stalking, Harassment or Reckless Endangerment, as defined in SMC Chapter 12A.06
 2. Promoting, advancing or profiting from prostitution as defined in Chapter 9A.88 RCW;
 3. Prostitution, as defined in SMC [12A.10.020](#)

4. Permitting Prostitution, as defined in SMC [12A.10.060](#)
5. Obstructing pedestrian or vehicular traffic, as defined in SMC [12A.12.015](#)(4);
6. Failure to Disperse, as defined in SMC [12A.12.020](#)
7. Weapons violations, as defined in SMC Chapter 12A.14
8. Drug Traffic Loitering, as defined in SMC [12A.20.050](#)(B); or
9. Gang related activity, as defined in RCW 59.18.030(16).
6. "Owner" means any person who, alone or with others, has title or interest in any property.
7. "Person" means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent, officer or employee of any of them.
8. "Person in charge" of a property means the owner and, if different than the owner, any other person in actual or constructive possession of a property, including but not limited to, a lessee, tenant, occupant, agent, or manager of a property under his or her control.
9. "Property" means any land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.
10. "RCW" means the Revised Code of Washington.
11. "SMC" means Seattle Municipal Code.

Title 10 - HEALTH AND SAFETY

Chapter 10.09 - CHRONIC NUISANCE PROPERTIES

10.09.020 Violation.

- A. Any property within the City of Seattle which is a chronic nuisance property is in violation of this Chapter and subject to its remedies;
- B. Owners and other persons in charge who permit property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies; and
- C. An owner who fails to comply with SMC [10.09.035](#) is in violation of this chapter and is subject to penalties pursuant to SMC [10.09.050D](#).

10.09.030 Declaration of Chronic Nuisance Property and Procedure.

A. The Chief of Police may declare that a property is a chronic nuisance property, as defined in this chapter, when there are specific facts and circumstances documenting (1) the occurrence of three or more nuisance activities on a property within sixty days or seven or more nuisance activities within a twelve month period, or (2) activity on a property as described in SMC [10.09.010\(4\)\(b\)](#). The Chief of Police shall provide written notice of this declaration to the persons in charge of the property. The notice shall be sent by first class mail or personally served, and a copy shall be sent by certified mail. The notice shall contain:

1. the street address or a legal description sufficient for identification of the property;
2. a declaration that the Chief of Police has determined the property has become a chronic nuisance property with a concise description of the nuisance activities that exist or that have occurred;
3. a notice that the owner and other persons in charge of the property are subject to monetary penalties as set forth in SMC [10.09.050](#)
4. a demand the owner and other persons in charge respond to the Chief of Police within seven days of service of the notice to discuss a course of action to correct the nuisance;
5. a notice that, if the person in charge does not respond to the Chief of Police as required in this section, or if the matter is not voluntarily corrected to the satisfaction of the Chief of Police, the City may file an action to abate the property as a chronic nuisance property pursuant to SMC [10.09.060](#) and/or take other action against the property or person in charge.

B. When a notice is issued pursuant to this section to a person in charge, other than an owner or an owner's agent, who has permitted a property to become a chronic nuisance property, a copy of such notice shall also be sent by first class mail or personally served on the owner of the property, and a copy shall be sent by certified mail.

C. If the owner or person in charge responds as required by the notice issued pursuant to SMC 10.09.030A and agrees to a course of action to abate the nuisance activities, a written correction agreement conforming to the requirements of SMC [10.09.040](#) shall be executed.

D. If (1) the agreed course of action does not result in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of issuance of the notice pursuant to SMC 10.09.030A, or within such longer period as permitted by the Chief of Police in writing or (2) the person in charge fails to respond as required by the notice, the Chief of Police may refer the matter to the City Attorney for initiation of proceedings pursuant to SMC [10.09.060](#)

Title 10 - HEALTH AND SAFETY
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10.09.035 Owner Cooperation.

An owner who receives a copy of a notice pursuant to SMC 10.09.030B describing a chronic nuisance property permitted by a person in charge other than the owner or the owner's agent, shall promptly take all reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property. Such reasonable steps may include the owner taking all acts and pursuing all remedies, including pursuing eviction of the person in charge, that are (1) available to the owner pursuant to any lease or other agreement, and (2) consistent with state and local laws, including but not limited to RCW 59.18.580, the Victim Protection Limitation on Landlord's Rental Decisions, and SMC 22.206.160C, the Seattle Just Cause Eviction Ordinance.

10.09.040 Correction Agreement.

A. A correction agreement is a contract between the City and the person in charge of the chronic nuisance property in which such person agrees to promptly take all lawful and reasonable actions, which shall be set forth in the agreement to abate the nuisance activities within a specified time and according to specified conditions. The agreement shall be signed by the person in charge and, if different, the owner. The agreement shall include the following:

1. The name and address of the persons in charge of the property;
2. The street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring;
3. A description of the nuisance activities;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
5. An agreement by the person in charge that the City may inspect the property as may be necessary to determine compliance with the correction agreement;
6. An agreement by the person in charge that the City may abate the nuisance and recover its costs and expenses and monetary penalties pursuant to this chapter from the person in charge for the nuisance if the terms of the correction agreement are not met; and
7. When a person in charge, other than an owner or an owner's agent, has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the Chief of Police pursuant to SMC [10.09.035](#)

10.09.050 Penalties.

- A. Except as provided in this section, in addition to any other sanction or remedial procedure that may be available, the person in charge is subject to a penalty of up to \$500 dollars per day from the date of the notice issued pursuant to SMC [10.09.030A](#) until the Chief of Police confirms that the property is no longer a chronic nuisance property.
- B. If the agreed course of action results in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of the notice issued pursuant to SMC [10.09.030A](#), or such longer period allowed by the Chief of Police pursuant to SMC [10.09.030D](#), the matter shall not be referred to the City Attorney and the person in charge shall not be subject to any penalty pursuant to this Chapter.
- C. An owner who fails to comply with SMC [10.09.035](#) is subject to a civil penalty of up to \$25,000.

10.09.060 Commencement of Action—Enforcement.

Upon referral pursuant to SMC [10.09.030](#), the City Attorney may initiate an action in any court of competent jurisdiction to abate a chronic nuisance property, to impose penalties pursuant to this chapter, to seek alternative remedies under city or state laws and seek any other relief authorized by law.

10.09.070 Burden of Proof

In an action against a person in charge to abate a chronic nuisance property or to recover penalties authorized by this chapter, the City shall have the burden of proof to show by a preponderance of the evidence that the property is a chronic nuisance property pursuant to this chapter. In an action against an owner to recover penalties authorized by SMC [10.09.050D](#), the City shall have the additional burden to prove by a preponderance of the evidence that the owner failed to comply with SMC [10.09.035](#). Copies of police incident reports and reports of other city departments documenting nuisance activities shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions.

10.09.080 Remedies.

- A. If the Court determines a property is a chronic nuisance property pursuant to this chapter the court may order any of the following: (1) order the person in charge to immediately abate nuisance activity from occurring on the property, (2) order that the Chief of Police shall have the right to inspect the property to determine if the court's orders have been complied with, (3) impose a penalty of up to \$500 per day against the person in charge for each day from the date the notice pursuant to SMC [10.09.030A](#) was issued until the Chief of Police confirms that the property is no longer a chronic nuisance property, (4) make any other order that will reasonably abate nuisance activities from occurring on the property, including authorizing the City to take action to abate nuisance activities from occurring upon the property if other court orders are not complied with or do not abate nuisance activity on the property

and providing that the costs of such City action are to be paid for by the person in charge of the property.

B. If the court finds that an owner failed to take all reasonable steps requested in writing pursuant to SMC [10.09.035](#), the court may impose a civil penalty up to \$25,000.

Title 10 - HEALTH AND SAFETY

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10.09.085 Additional remedies

A. In addition to the remedies authorized by SMC [10.09.080](#), if as part of its order abating a chronic nuisance property, the court orders a person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation assistance not to exceed \$3,300 to any tenant (1) who must relocate because of the order of abatement, and (2) the court finds not to have caused or participated in nuisance activities at the property.

B. For purposes of this section, SMC [10.909.085](#), the term "tenant" shall have the meaning as set forth in SMC [22.210.030](#).M.

10.09.090 Suspension or Revocation of Business License

In addition to any other remedy that is authorized by this chapter or other laws, upon the finding by a court that a property is a chronic nuisance property pursuant to this chapter, the person in charge is subject to the suspension or revocation of a business license or other license at such property issued pursuant to Titles 5 and 6 of the Seattle Municipal Code.

Everett

Chapter 9.64 CHRONIC NUISANCE PROPERTIES

Sections:

- [9.64.010](#) Intent.
- [9.64.020](#) Definitions.
- [9.64.030](#) Determination of chronic nuisance—Notice and demand.
- [9.64.040](#) Violation—Penalty.
- [9.64.050](#) Enforcement—City attorney.
- [9.64.060](#) Continuing nuisance activities—Permitting a chronic nuisance.
- [9.64.070](#) Diversion.

[9.64.010 Intent.](#)

People should be able to enjoy ownership, use and possession of property without negative interference from chronic nuisance properties. The intent of the Everett city council in enacting this chapter is to exercise specific powers granted by the state of Washington to first class cities to prevent and abate nuisances, declare what shall be a nuisance, and abate the same, and to impose fines upon parties who create, continue, or suffer nuisances to exist. In addition, the council intends to exercise the specific power granted by the state to provide for the punishment of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating city ordinances. (Ord. 3091-08 § 1, 2008)

[9.64.020 Definitions.](#)

For purposes of this chapter:

- A. A “chronic nuisance property” is:
 - 1. Property that, within any sixty-day period:
 - a. Has had three or more nuisance activities occur or exist upon the property; or
 - b. Has had three or more nuisance activities occur within two hundred feet of the property that involve the person in charge of the property and/or any person associated with the person in charge of the property; or
 - c. Has had either nuisance activities occur or exist upon the property or has had nuisance activities occur within two hundred feet that involved the person in charge of the property and/or any person associated with the person in charge of the property for a combined total of three or more times.

2. Buildings or portions thereof which are substandard or dangerous as defined in the city of Everett housing code (Chapter 16.08) or dangerous building abatement code (Chapter 16.12) as in effect at the date of enactment of this chapter or as thereafter amended.
3. For the purposes of this section and Section [9.64.030\(C\)](#), a person is associated with the person in charge of the property if he/she is on the property or within two hundred feet of the property as a guest or invitee of the person in charge of the property.
 - B. "Chief of police" means the city of Everett chief of police or his designee.
 - C. "City attorney" means the city of Everett city attorney or his designees.
 - D. "RCW" means the Revised Code of Washington, as in effect at the date of enactment of this chapter or as thereafter amended.
 - E. "EMC" means the Everett Municipal Code, as in effect at the date of enactment of this chapter or as thereafter amended.
 - F. "Nuisance activity" means:
 1. Any of the following activities, behaviors or conduct:
 - a. Harassment offenses as defined in Chapter 10.23.
 - b. Assault or reckless endangerment as defined in Chapter 10.16.
 - c. Disorderly conduct as defined in Section [10.48.010](#).
 - d. Disorderly house as defined in Section [10.52.010](#).
 - e. Indecent exposure and prostitution offenses as defined in Chapter 9A.88 RCW and Chapter 10.24.
 - f. Liquor-related offenses as defined in Chapters 66.28 and 66.44 RCW and in Chapters 10.42 and 10.74.
 - g. Offensive littering as defined in Section [10.70.010](#).
 - h. Fraud-related offenses as defined in Chapter 9A.60 RCW.
 - i. Possession, manufacture or delivery of a controlled substance or related offenses as defined in Chapter 69.50 RCW.
 - j. Precursor drug-related offenses as defined in Chapter 69.43 RCW and Chapter 10.39.
 - k. Marijuana and drug paraphernalia offenses as defined in Chapter 10.35.

- I. Loitering for the purpose of engaging in drug-related activity as defined in Chapter 10.37.
 - m. Violation of felony drug off-limits orders as defined in Chapter 10.66 RCW and Section [10.38.010](#), court order violations as defined in Chapter 10.13, and violation of stay out of areas of prostitution orders as defined in Section [10.24.210](#).
 - n. Gambling-related offenses as defined in Chapters 9.46 and 9.47 RCW.
 - o. Firearms and dangerous weapons offenses as defined in Chapter 9.41 RCW and Chapter 10.78.
 - p. Public disturbance noises as defined in Chapter 20.08.
 - q. Any attempt, solicitation or conspiracy to commit any of the above activities, behaviors or conduct, as defined in Chapter 10.10.
- 2. Activities, behavior or conduct that is contrary to any of the following city of Everett regulatory codes:
 - a. License code (EMC Title 5).
 - b. Animal control code (EMC Title 6).
 - c. Health and safety code (EMC Title 8).
 - d. Zoning code (EMC Title 19).
 - e. Fire code (Chapter 16.03).
 - f. Building code (Chapter 16.01).
 - g. Land division code (EMC Title 18).
 - h. Noise control code (Chapter 20.08).
 - i. Washington State Clean Air Act violations.
 - 3. Nuisance-related activities as defined in Chapters 7.48, 7.48A, 9.66 and 35.22 RCW.
 - 4. Gang-related activity as defined in RCW 59.18.030 and/or in the EMC.
- G. "Control" means the power or ability to direct or determine conditions and/or activities located on or occurring on a property.
- H. "Person" means an individual, group of individuals, corporation, government or governmental agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

- I. "Person in charge of the property" means any person in actual or constructive possession of the property, including but not limited to an owner, lessee, tenant or occupant with control of the property.
- J. "Owner" means one or more persons, jointly or severally, in whom is vested all or any part of the legal title to property, or all or part of the beneficial ownership and a right to present use and enjoyment of the property, including any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.
- K. "Property" means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, grounds, vacant lots, facilities, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. (Ord. 3091-08 § 2, 2008)

9.64.030 Determination of chronic nuisance—Notice and demand.

- A. When the chief of police receives police reports documenting the existence of a chronic nuisance property, he may independently review such reports to determine whether the property is a chronic nuisance property as defined in this chapter.
- B. If, following the review described in subsection A of this section, the chief of police determines that the property is a chronic nuisance property, he shall notify the person in charge of the property in writing that the property is a chronic nuisance property and demand that he/she cease and desist from allowing nuisance activities, as defined in this chapter, to continue.
1. The notice and demand shall contain substantially the following information:
 - a. The name and address of the person to whom the letter is issued;
 - b. The location of the subject property by address or other description sufficient for identification of the subject property;
 - c. A statement that the chief of police has determined the property to be a chronic nuisance property;
 - d. A concise description of the documented nuisance activities upon which the determination was based;
 - e. A warning that there is potential civil and/or criminal liability for continuing to allow nuisance activities, as defined in this chapter, to occur upon and/or within two hundred feet of the property; and
 - f. Name and telephone number of the police department representative who is responsible for handling inquiries from the person in charge of the property or others with an interest in the property.
 2. The notice and demand shall be served by means of personal service, or by mailing a copy of the notice to the person in charge of the property at his/her last known address, certified mail return receipt requested, or by posting a copy of the notice and demand conspicuously upon the subject property.

3. Proof of service shall be made by a written declaration under penalty of perjury by the person effecting the service, declaring the time and date of service and the manner by which service was made.

4. A copy of the notice and demand shall be served upon the owner at the address shown on the tax rolls of the county in which the property is located and/or the occupant at the address of the property, if these persons are different than the person in charge of the property.

C. The chief of police may refer the matter to the city attorney for enforcement if, within a six-month period from issuance of the notice and demand, the chief of police receives an additional police report documenting the occurrence of a nuisance activity:

1. Upon the property; or

2. Within two hundred feet of the property and involving the person in charge of the property or any person associated with the person in charge of the property. (Ord. 3091-08 § 3, 2008)

9.64.040 Violation—Penalty.

A. Any property within the city that is a chronic nuisance property is in violation of this chapter and subject to the remedies described herein, and to the enforcement procedures, remedies and penalties set forth in Chapter 1.20, and to the enforcement procedures, remedies and penalties set forth in EMC Title [5](#).

B. Any person in charge of property that is a chronic nuisance property is in violation of this chapter and subject to the remedies described herein, and to the enforcement procedures, remedies and penalties set forth in Chapter 1.20, and to the enforcement procedures, remedies and penalties set forth in EMC Title [5](#) unless he/she can show that he/she is in compliance with a written plan of action that he/she has entered into with the city to abate the nuisance, as described in Section [9.64.070](#).

C. Whenever the city issues a violation citation to more than one person because of a violation of this chapter, those persons shall be jointly and severally liable. (Ord. 3091-08 § 4, 2008)

9.64.050 Enforcement—City attorney.

A. Notwithstanding any other provision of the Everett Municipal Code, the city attorney, on behalf of the city, is authorized to take appropriate action to enforce compliance with the provisions of this chapter. Said enforcement action may include, but is not limited to, any of the following remedies:

1. Issuance of a violation citation under Chapter 1.20. A violation citation issued for a violation of the provisions of this chapter may include in its corrective action suspension or revocation of any license issued under EMC Title [5](#), and the violations hearing examiner is hereby granted specific authority to so order license suspension or revocation; or

2. Application to any court of competent jurisdiction for injunction, mandamus or other appropriate action or proceeding to prevent continuing nuisance activities at the property and/or restraining any

person from violating any of the provisions of this chapter and compelling compliance with the provisions herein. The person shall pay all city costs, as defined in Section [1.20.090\(B\)](#), of seeking such relief in the event the city is successful in obtaining the relief. Said costs and/or other penalties may be collected by assessment lien in accordance with Chapter 1.20.

B. Nothing in this chapter shall be construed to prevent or prohibit the city from pursuing immediate relief from nuisance activities at a property by any other means available by law, including but not limited to emergency relief under Chapter 1.20 and an order of the fire code official under the Everett fire code. Penalty and enforcement provisions provided in this chapter shall not be deemed exclusive and the city may pursue any remedy or relief it deems appropriate.

C. The failure to prosecute and/or convict an individual for the violation(s) constituting the nuisance activities is not a defense to an action under this chapter. (Ord. 3091-08 § 5, 2008)

[9.64.060 Continuing nuisance activities—Permitting a chronic nuisance.](#)

A. It shall be unlawful for any person to permit a chronic nuisance.

B. Permitting a chronic nuisance occurs when a person:

1. Has been issued a violation citation under this chapter; and
2. Has allowed any additional nuisance activity on the property within sixty days of issuance of the violation citation; and
3. At the time the additional nuisance activity occurred, the violation citation had not resulted in a hearing examiner's order.

C. Permitting a chronic nuisance is a misdemeanor.

D. Each nuisance activity that is allowed on the property as described in this section shall constitute a separate offense.

E. It shall be a defense to permitting a chronic nuisance if the person in charge of the property can show that he/she is in compliance with a written plan of action that he/she has entered into with the city to abate the nuisance, as described in Section [9.64.070](#). (Ord. 3091-08 § 6, 2008)

[9.64.070 Diversion.](#)

If satisfied of the good faith of the person in charge of the property, the city attorney, in coordination with the chief of police, may enter into a stipulated agreement and/or order for abatement of nuisance activities with the person in charge of the property. (Ord. 3091-08 § 7, 2008)

Title 1.20 Enforcement Procedures

1.20.060 Monetary penalties.

- A. **Joint and Several Liability.** More than one person, firm, corporation, association or agent therefor may be found responsible for a single violation. The violations hearing examiner may impose a monetary penalty for each violation as a joint and several penalty, or individually.
- B. **Minimum Penalties.** The monetary penalty for each initial violation shall not exceed five hundred dollars individual or five hundred dollars joint and severally, unless the violator is a repeat violator as defined in this section, in which case the monetary penalty for each repeat violation shall not be less than five hundred dollars nor exceed one thousand dollars. The violations hearing examiner, in addition to penalties for each repeat violation, may impose a fine against the repeat violator in an amount not to exceed five hundred dollars.
- C. **Duty to Correct/Abate Notwithstanding Imposition of Penalties.** Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the violation citation was issued of the duty to correct the violation or preclude the city from taking action to abate the situation as provided herein.
- D. **Payment of Penalties—Collections, Assessment Liens.** The monetary penalty constitutes an obligation of the person(s) to whom the violation citation is issued. Any monetary penalty assessed must be paid to the city within fifteen calendar days of the effective date of the violations hearing examiner's order. The city is authorized to take action to collect the monetary penalty, including filing civil actions or turning the matter over to collection, in which case costs incurred by the city as a result of the collection process will be assessed in addition to the monetary penalty. In addition, the city can also incorporate any outstanding penalty into an assessment lien when the city incurs costs in abating the violation. (Ord. 2916-06 § 4, 2006: Ord. 2838-05 § 2, 2005: Ord. 2335-98 § 5, 1998: Ord. 2221-97 § 6, 1997)

1.20.090 Abatement—Costs—Assessment lien—Alternative or accumulative methods of collection.

- A. **Abatement Authority.** Notwithstanding any other provision herein, whenever the city is authorized, whether by order of a violations hearing examiner or by any other authority, to undertake an abatement, the city may cause the abatement to be performed by city employees or by private contract under the direction of the city. The city, its employees and agents, using lawful means, are expressly authorized to enter upon the subject property for such purposes.
- B. **Abatement Costs.** All costs of abatement, including incidental expenses, shall be billed to the person or persons to whom the violation citation was issued and shall become due and payable thirty days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees incurred by the city; costs incurred in documenting the violation; the actual expenses and costs to the city in the preparation of notices, specifications and contracts, and in inspecting the work; and the cost of any required printing and mailing.
- C. **Failure to Pay—Report to City Council—Collection.** In the event the person responsible fails to pay within the thirty-day period set forth in subsection B of this section, the code compliance officer shall

render an itemized report in writing to the city council showing the cost of abatement, including the rehabilitation, demolition, restoration or repair of such property, including any salvage value relating thereto plus the amount of any outstanding penalties; provided, that before the report is submitted to the city council, a copy of the same shall be posted for at least five days upon or in front of such property, together with a notice of the time and date when the report shall be heard by the city council for confirmation. A copy of the report and notice shall be served upon the owner of the property in accordance with the provisions of Section [1.20.010](#) at least five calendar days prior to submitting the same to the city council. The city council has the authority to revise the report, to authorize collection of the debt in any lawful manner, or, in the case of a debt owed by a property owner, to place an assessment lien on the property as provided herein, or to obtain a judgment and foreclosure.

D. Assessment Lien. In the case of an assessment lien, the total cost of the abatement including any penalties assessed against the property owner, as so confirmed by the city council, shall be assessed against the respective lot or parcel of land to which it relates.

Upon certification to the county treasurer by the city treasurer of the assessment amount due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the city. The lien shall be of equal rank with the state, county and municipal taxes. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within fifteen calendar days after the assessment is placed upon the assessment roll as provided herein.

E. Other Remedies. In addition to, or in lieu of, the provisions set forth in this chapter, the city may, at its option, turn the matter over to collection or commence a civil action in any court of competent jurisdiction to collect for any such charges incurred by the city to obtain compliance pursuant to this chapter and/or to collect any penalties that have been assessed. Further, the city administration, upon concurrence of the city attorney, may file for injunctive or other civil relief in superior court regarding code violations. (Ord. 2916-06 § 7, 2006; Ord. 2335-98 § 8, 1998)

Burien

Chapter 9.120 CHRONIC NUISANCE PROPERTIES Added 1/13

Sections:

- [9.120.010](#) Purpose. Added 1/13
- [9.120.020](#) Definitions. Added 1/13
- [9.120.030](#) Violation. Added 1/13
- [9.120.040](#) Procedure. Added 1/13
- [9.120.050](#) Commencement of action – Enforcement. Added 1/13
- [9.120.060](#) Summary closure. Added 1/13

[9.120.010 Purpose.](#) Added 1/13

(1) Chronic nuisance properties present significant health, safety and welfare concerns, where the persons responsible for such properties fail to take corrective action to abate the nuisance condition. Chronic nuisance properties can have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located. This chapter is enacted to provide a remedy for nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties. This remedy is not the exclusive remedy available under state or local laws and may be used in conjunction with such other laws.

(2) Also, chronic nuisance properties can be a financial burden to the city due to repeated calls for service necessitated by nuisance activities that repeatedly occur or exist on such properties. This chapter provides a practical process for ameliorating such activities and for holding accountable the persons ultimately responsible for such properties. [Ord. 572 § 1, 2012]

[9.120.020 Definitions.](#) Added 1/13

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

(1) “Abate” means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter, by such means and in such a manner and to such an extent as the applicable city department director or designee(s) determines is necessary in the interest of the general health, safety and welfare of the community.

(2) “Control” means the ability to regulate, restrain, dominate, counteract or govern property or conduct that occurs on a property.

(3) “Chronic nuisance property” means property on which any combination of three or more nuisance activities occur or exist during any 60-day period.

(4) “Drug-related activity” means any unlawful activity at a property, which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined in Chapter [69.50](#) RCW, legend drug as defined in Chapter [69.41](#) RCW, or imitation controlled substances as defined in Chapter [69.52](#) RCW or which is established as a crime under Chapter [9.35](#) BMC.

(5) “Nuisance activity” means and includes:

(a) Any nuisance as defined by state law or local ordinance occurring on, around or near a property, including, but not limited to, violations of the following laws and regulations:

- (i) BMC Title [8](#), Health and Safety;
- (ii) BMC Title [15](#), Buildings and Construction; and
- (iii) BMC [9.75.100](#), Public nuisances.

(b) Any criminal conduct as defined by state law or local ordinance occurring on, around or near a property, including, but not limited to, the following activities or behaviors:

- (i) Stalking, BMC [9.80.300](#);
- (ii) Harassment, BMC [9.80.300](#);
- (iii) Public disturbance, BMC [9.105.100](#);
- (iv) Disorderly conduct, BMC [9.105.200](#);
- (v) Assault, BMC [9.80.100](#);
- (vi) Domestic violence crimes, BMC [9.80.100](#);
- (vii) Reckless endangerment, BMC [9.80.100](#);
- (viii) Prostitution, BMC [9.90.010](#) and [9.90.020](#);
- (ix) Patronizing a prostitute, BMC [9.90.030](#);
- (x) Public disturbance noises, BMC [9.105.400](#);
- (xi) Crimes relating to public morals, Chapter [9.95](#) BMC;
- (xii) Crimes relating to firearms and dangerous weapons violation, Chapter [9.50](#) BMC;
- (xiii) Dangerous animal or cruelty to animal violations, BMC [6.05.300](#); and
- (xiv) Drug-related activity.

(c) For purposes of this chapter, “nuisance activity” shall not include conduct where the person responsible is the victim of a crime and had no control over the criminal act.

(6) “Person responsible for property” or “person responsible” means, unless otherwise defined, any of the following: any person who has titled ownership of the property or structure which is subject to this chapter; an occupant in control of the property or structure which is subject to this chapter; a developer, builder, or business operator or owner who is developing, building, or operating a business on the property or in a structure which is subject to this chapter; a mortgagee that has filed an action in foreclosure on the property that is subject to the regulation, based on breach or default of the mortgage agreement, until title to the property is transferred to a third party; a mortgagee of property that is subject to the regulation and has not been occupied by the owner, the owner’s tenant, or a person having the owner’s permission to occupy the premises for a period of at least 90 days; and/or any person who has control over the property and created, caused, participated in, or has allowed a violation to occur.

(7) “Person” means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them.

(8) “Premises and property” may be used by this chapter interchangeably and means any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as residential or commercial property.

(9) “Rental unit” means any structure or that part of a structure, including but not limited to single-family home, room or apartment, which is rented to another and used as a home, residence, or sleeping place by one or more persons. [Ord. 572 § 1, 2012]

9.120.030 Violation. **Added 1/13**

(1) Any property within the city of Burien which is a chronic nuisance property is in violation of this chapter and subject to its remedies; and

(2) Any person responsible for property who permits property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies. [Ord. 572 § 1, 2012]

9.120.040 Procedure. **Added 1/13**

(1) When the chief of police, or his/her designee(s), receives documentation confirming the occurrence of three or more nuisance activities within a 60-day period on any property, the chief of police, or his/her designee(s), may review such documentation to determine whether it describes the nuisance activities enumerated in BMC [9.120.020](#). Upon such a finding, the chief of police, or his/her designee(s), shall warn the person responsible for such property, in writing, that the property is in danger of being declared a chronic nuisance property.

(2) The warning shall contain:

(a) The street address or a legal description sufficient for identification of the property;

- (b) A concise description of the nuisance activities that exist, or that have occurred on the property;
- (c) A demand that the person responsible for such property respond to the chief of police or his/her designee(s) within 10 days of service of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;
- (d) Offer the person responsible an opportunity to abate the nuisance activities giving rise to the violation; and
- (e) A statement describing that if legal action is sought, the property could be subject to closure and civil penalties and/or costs assessed up to \$100.00 per day if the property is declared a chronic nuisance property.

(3) The chief of police or his/her designee(s) shall serve or cause to be served such warning upon the person responsible in accordance with the procedures set forth in BMC [1.15.070](#).

(4) If the person responsible fails to respond to the warning within the time prescribed, the chief of police, or his/her designee(s), shall issue a notice declaring the property to be a chronic nuisance property and post such notice at the property and issue the person responsible a civil infraction, punishable by a maximum penalty of \$1,000. If the person responsible fails to respond to the issued infraction and/or continues to violate the provisions of this chapter, the matter shall be referred to the office of the city attorney for further action.

(5) If the person responsible responds as required by the notice and agrees to abate the nuisance activity, the chief of police, or his/her designee(s), and the person responsible may work out an agreed upon course of action which would abate the nuisance activity. If an agreed course of action does not result in the abatement of the nuisance activities or if no agreement concerning abatement is reached, the matter shall be forwarded to the office of the city attorney for enforcement action. Provided, that in the event the chief of police or his/her designee(s) or the city attorney determines that the person responsible has taken reasonable steps to abate the nuisance activity, the city attorney shall not commence an enforcement action under this chapter, notwithstanding the continuance of the nuisance activity.

(6) It is a defense to an action for chronic nuisance property that the person responsible, at all material times, could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic nuisance property. [Ord. 572 § 1, 2012]

[9.120.050 Commencement of action – Enforcement.](#) **Added 1/13**

(1) Once the matter is referred to the city attorney, the city attorney shall immediately review and make a determination to initiate legal action authorized under this chapter or state statute, or may seek alternative forms of abatement of the nuisance activity. The city attorney may initiate legal action on the chronic

nuisance property and seek civil penalties and costs in King County superior court for the abatement of the nuisance.

(2) In determining whether a property shall be deemed a chronic nuisance property and subject to the court's jurisdiction, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is a chronic nuisance property. The city may submit official police reports and other affidavits outlining the information that led to arrest(s), and other chronic nuisance activity occurring or existing at the property. The failure to prosecute an individual or the fact no one has been convicted of a crime is not a defense to a chronic nuisance action.

(3) Once the superior court determines the property to be a chronic nuisance under this chapter the court may impose a civil penalty against any or all of the persons responsible for the property, and may order any other relief deemed appropriate. A civil penalty may be assessed for up to \$100.00 per day for each day the nuisance activity continues to occur following the date of the original warning by the chief of police, or his/her designee(s), as described in BMC [9.120.040](#). In assessing the civil penalty, the court may consider the following factors, citing to those found applicable:

- (a) The actions taken by the person responsible to mitigate or correct the nuisance activity;
- (b) The repeated or continuous nature of the nuisance activity;
- (c) The statements of the neighbors or those affected by the nuisance activity; and
- (d) Any other factor deemed relevant by the court.

(4) The superior court which determined the property to be a chronic nuisance property shall also assess costs against the person responsible in the amount it costs the city to abate, or attempt to abate, the nuisance activity.

(5) If the superior court determines the property to be a chronic nuisance property, the superior court shall order the property closed and secured against all unauthorized access, use and occupancy for a period up to one year, and may impose a civil penalty and costs.

(6) Once a determination has been made by the superior court that the chronic nuisance property shall be subject to closure the court may authorize the city to physically secure the premises and initiate such closure. Costs for such closure shall be submitted to the court for review. Any civil penalty and/or costs awarded to the city may be filed with the city treasurer who shall cause the same to be filed as a lien on the property with the county treasurer. The city shall file a formal lis pendens notice when an action for abatement is filed in the superior court.

(7) The superior court shall retain jurisdiction during any period of closure or abatement of the property.

(8) King County district court is to have jurisdiction of all civil infractions issued pursuant to this chapter. [Ord. 572 § 1, 2012]

9.120.060 Summary closure. **Added 1/13**

Nothing in this chapter prohibits the city from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public welfare and safety. The city may take summary action to close the property without complying with the notification provisions of BMC [9.120.040](#), but shall provide such notice as is reasonable under the circumstances. [Ord. 572 § 1, 2012]

Renton

1-3-3 NUISANCES:

A. Purpose: Unlawful, unkempt, unsafe, unsanitary, improperly maintained premises, properties, sidewalks and easements, premises where illegal and/or code violating conduct occur, and chronic nuisance properties within the City, create potentially grave habitability, health, safety, sanitation, and welfare concerns for the City, its residents and guests, and for the value and economic well-being of the premises and properties and premises and/or property owners in Renton.

These nuisances are a financial burden on the City because repeated calls for service, complaints or requests for investigations and/or inspections of suspected nuisances require the time and resources of the City administration, the Renton Police Department, the City Attorney Department and the court. Therefore, it is the purpose and intent of the City, in enacting this Chapter, to ameliorate nuisances and hold those persons responsible criminally and financially accountable.

The purpose of this Chapter is to provide the City's representatives with the necessary powers to prevent, remedy and/or abate nuisances and to charge those responsible for the abatement costs. This Chapter is a reasonable and proper exercise of the City's police power (consistent with and as explained in *County of Spokane v. Valu-Mart*, 69 Wn.2d 712, 719-720; 419 P.2d 993 (1966)), and it shall be liberally construed to effect this purpose. This Chapter's remedies are not exclusive and remedies available under federal, state or local law may also apply.

Consistent with RCW 35.80.030(7) (entitled Permissible Ordinances – Appeal), the City of Renton is (a) prescribing minimum standards for the use and occupancy of dwellings throughout the municipality or county, (b) prescribing minimum standards for the use or occupancy of any building, structure, or premises used for any other purpose, (c) preventing the use or occupancy of any dwelling, building, structure, or premises, that is injurious to the public health, safety, morals, or welfare, and (d) prescribing punishment for the violation of any provision of such ordinance.

B. Definitions: For the purposes of this Chapter, unless it is plainly evident from context that a different meaning is intended, the following words and phrases shall be defined as follows, and the singular and plural of each word shall be interchangeable when necessary to carry out the intent of this Chapter:

1. "Abate" means to clean, eliminate, remove, repair or otherwise remedy a condition that amounts to a nuisance under this Chapter by such manner, means, and to the extent as an Administrator or law enforcement officer determines is reasonably necessary to protect the general health, morals, safety and welfare of the City of Renton.
2. "Act" means doing, finishing, performing, or preparing to do something.
3. "Administrator" means a City of Renton department administrator or designee.

4. "Calls for service" means calls to 911, including but not limited to Valley Communications, and/or calls directly to the Renton Police Department or one of its officers. Calls for service, as that term is used in the definition of "chronic nuisance premises," does not include incidents that are unrelated to the premises, its resident(s), owner(s), or guests, or calls for general information.
5. "Chronic nuisance premises":
 - a. As it relates to single-family or duplex housing or an individual apartment unit, means a property on which any of the following exist:
 - i. Six (6) or more calls for service occur or exist during any sixty (60)-day period; or
 - ii. Ten (10) or more calls for service occur or exist during any one hundred and eighty (180)-day period; or
 - iii. Fourteen (14) or more calls for service occur or exist during any twelve (12)-month period;
 - b. Any action against a "chronic nuisance premises" for a violation under subsection B.5.a.i of this Section does not preclude the use of those nuisances or criminal activities to find a violation of subsection B.5.a.ii or iii of this Section; and a violation under subsection B.5.a.i and/or ii of this Section does not preclude the use of those nuisances or criminal activities to find a violation of subsection B.5.a.iii of this Section as long as all of the nuisances or criminal activities occurred during the applicable time period.
6. "Criminal violation" means any violation punishable under RCW 9A.20.021(2) or (3) (Maximum sentences for crimes committed July 1, 1984, and after) as it currently exists or is hereafter amended.
7. "Code Compliance Inspector" (CCI) or "Code Enforcement Officer" (CCO) means any person authorized by an Administrator to investigate or inspect for code violations.
8. "Control" means the ability to dominate, govern, manage, own or regulate a premises, or the conduct that occurs in or on a premises.
9. "Development" means the alteration, demolition, enlargement, erection, maintenance or use of any premises or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a City regulation or ordinance.
10. "Drug-related activity" means any activity at a premises that violates Chapter 69.41 RCW (Legend Drugs), Chapter 69.50 RCW (Uniform Controlled Substances Act), Chapter 69.51A (Medical Marijuana) or 69.52 RCW (Imitation Controlled Substances), Chapter 69.53 RCW (Use of Buildings for Unlawful Drugs) or any applicable federal, state or local law regulating the same general subject-matter, as it currently exists or is hereafter amended.

11. "Emergency" means any situation which an Administrator or law enforcement reasonably believes requires immediate action to prevent or eliminate an immediate threat to public health, morals, safety, or welfare of persons or property in the City of Renton.
12. "General public" means the City of Renton, any of its communities or neighborhoods, or more than one (1) neighbor and/or their guests.
13. "Gross misdemeanor" means any criminal violation punishable under RCW 9A.20.021(2), as it currently exists or is hereafter amended.
14. "Hearing Examiner" means an individual authorized to hear administrative appeals and designated matters for the City of Renton.
15. "Incurred expense" includes, but is not limited to, actual, direct or indirect, appeal costs, fees and expenses; attorney, expert, filing and litigation costs, fees and expenses; hearing costs and expenses; copy, documentation, and investigation costs and expenses; notice, contract and inspection costs and expenses; personnel expenses; hauling, disposal and storage costs and expenses; preparation, travel and parking costs, fees and expenses; photocopying, mailing and service costs and expenses. All such costs and expenses shall constitute a lien against the affected property, as set forth in subsection G.6 of this Section.
16. "Material statement" means any written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.
17. "Misdemeanor" means any criminal violation punishable under RCW 9A.20.021(3), as it currently exists or is hereafter amended.
18. "Monetary penalty" means any cost, fines or penalties related to violation of this Chapter, including but not limited to actual fines or penalties to be paid as a result of a nuisance.
19. "Nuisance" (also referred to herein as "nuisance violation") means but is not limited to:
 - a. "Moral" or "public" nuisances, even if the extent of the damage is unequal, that is detrimental to the general public;
 - b. Any unreasonable interference with the general public's common right, such as unlawfully obstructing the free use of public property, or any act or omission that adversely and unreasonably impacts the general public's ability to enjoy private property;
 - c. Violation of any federal, state or county regulation, land use, navigation, public health or morals ordinance or criminal law, whether adopted or not by the City of Renton;
 - d. Violation of any section of the RMC identified as unlawful and/or a nuisance under Development Regulations (RMC Title IV), Finance and Business Regulations (RMC Title V),

Police Regulations (RMC Title VI), Health and Sanitation (RMC Title VIII), Public Ways and Property (RMC Title IX), Traffic (RMC Title X), or public health or morals ordinance or criminal law, as it currently exists or is hereafter amended;

e. Anything defined by RCW 7.48.140 (Public nuisances enumerated), Chapter 7.48A RCW (Moral nuisances), or which constitutes a misdemeanor under RCW 9.66.010 (Public nuisance) or RMC 6-18-11 (Breach of the Public Peace), as it currently exists or is hereafter amended;

f. Acting, failing to act, permitting or allowing any act or failure in the use of a rental premises for criminal purposes. Both the person in charge and the owner(s) of the premises shall be responsible for the nuisance;

g. For clarity, nuisances that violate this subsection B.19 include but are not limited to any of the following conditions:

i. Beekeeping: The existence of any bees, yellow jackets, hornets, or wasps that harbor in colonies, hives, apiaries or nests which are not authorized by ordinance or statute and are not in full compliance with Chapter 15.60 RCW (Apiaries) or Chapter 16-602 WAC (Apiaries);

ii. Dumping: Any violation of RMC 6-14-9 (Litter in Parks), RMC 6-14-16 (Dropping Litter from Air Craft), RMC 6-18-20M (Littering), RMC 8-1-4 (Unlawful Storage, Deposit, Disposal Scavenging, and Hauling of Solid Waste), RMC [4-6-030H](#) (Discharge Prohibition), RCW 70.95.240 (Unlawful to dump or deposit solid waste without permit – Penalties – Litter cleanup restitution payment), and any applicable rule or regulation;

iii. Dumping in Waterways: Any violation of RMC 6-14-10 (Litter in Lakes and Fountains), WAC 332-30-117.6 (Waterways), WAC 332-30-139.3 (Marinas and moorages), WAC 332-30-163.9, 10 and 13 (River management), WAC 332-30-166.1 and 2 (Open water disposal sites), WAC 332-30-171.4 (Residential uses on state-owned aquatic lands), or any dumping of materials, waste, chemicals, or other substances in or near waterways, as it currently exists or is hereafter amended;

iv. Vegetation:

(a) Vegetation exceeding twelve inches (12") in height (exclusive of plants and flowers within a flower bed or container, shrubbery, or trees) located in any front, back or side yard, adjacent public right-of-way or planting strip, or any vacant property;

- (b) Vegetation such as overhanging limbs or branches that are less than eight feet (8') above a public walkway or sidewalk, or less than fourteen feet (14') above a public street;
 - (c) Vegetation that obstructs or hinders the use of any public walkway, sidewalk, or street, or that obstructs or obscures the view of traffic or traffic control devices;
 - (d) Cut vegetation that is left on property, including but not limited to trees, shrubs or plants, that has not been placed in a yard-waste or otherwise disposed of lawfully;
 - (e) Dead, decaying or diseased trees or branches that pose a threat to human life or property;
 - (f) Fire hazard grass(es), plant(s), or weed(s); or
 - (g) Noxious weeds or any toxic vegetation growth;
- v. Nuisances that do not affect the general community or more than one household are private nuisances and are not regulated under this definition;
- vi. No lapse of time can legalize a nuisance, public nuisance, moral nuisance or chronic nuisance;
- h. The following shall not constitute public nuisances:
- i. Compost piles less than four feet (4') in height and six feet (6') in diameter at ground level, and 30 feet (30') or more from any dwelling, and four feet (4') or more from adjoining properties;
 - ii. Storm debris within thirty (30) days following a storm event;
 - iii. Construction residue and debris during and for fourteen (14) days following completion of work, unless the residue and/or debris is substantially or unreasonably impacting the general public;
 - iv. Fallen leaves, tree needles, tree fruit and similar vegetation, during the months of October through April, inclusive, except when located on public sidewalks;
 - v. The accumulation and temporary storage, in containers designated for such purposes, of recyclable materials pursuant to a program of recycling adopted by the City; provided, however, that such containers must not be publicly visible or they must be made available to the City's garbage or recycle contractor within fourteen (14) days after having been filled to fifty percent (50%) or more of their capacity;

vi. Uncultivated, uncut or untended weeds, grass, bushes or other vegetation not constituting a health or fire hazard, existing in a natural state on undeveloped, agricultural, native growth easement or defined critical areas such as wetlands, streams, and steep slopes.

20. "Omission" means a failure to act, complete, or to perform a legal duty.

21. "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

22. "Person in control" means any person who possesses, has control over the premises, or who is responsible for creating, maintaining or permitting the nuisance, whether as owner, tenant, occupant, or otherwise. There may be more than one person in control for purposes of this Chapter. ("Possess" in this context means to live in, or stay at a premises, and/or to literally possess or have their name on a title, deed, mortgage or an agreement related to the premises.)

23. "Rental property" means any premises that is rented or intended to be rented, possessed whole or in part by a tenant, occupant, or otherwise, other than the owner, regardless of the manner of remuneration or the absence of remuneration. The owner in this context is any person or business entity, including but not limited to corporations, limited liability entities, and partnerships that own, operate, manage, maintain or control rental housing or rental property. The following are not rental housing or property:

- a. A retail, commercial or industrial rental, unless someone is permitted to reside, sleep or stay overnight in that premises;
- b. A registered and licensed nursing home; or
- c. A properly registered and licensed assisted living facility.

24. "Premises" means any building, factory-built house, dwelling, house, mobile home, property, rental unit or property, or portion thereof, including, but not limited to, any structure used as a residential or commercial property, built for the support, shelter or enclosure of any persons, animals, chattels or property. "Premises" and "property" may be used interchangeably in this Chapter. As a result, "premises" may also mean lot, tax parcel, real estate or land, or portions thereof.

25. "Premises for illegal activities" means any premises operated, used or permitted to be used for prostitution, the illegal manufacture of liquor, illegal gambling, illegal drug usage, illegal drug selling, trading or dispensing pursuant to Chapter 7.43 RCW, or is maintained as a place for persons who appear to be under the influence of a controlled substance or alcohol. It also means a premises operated, used or permitted to be used for gang or gang-related activities. Each illegal act

shall constitute a separate violation. Each individual engaging, participating, permitting, or facilitating the illegal act(s) is subject to this Section.

26. "Tenant" means any person who does not own the premises, who occupies a dwelling, mobile home, or premises primarily for the purpose of living, residing or staying there.

27. "Unfit" or "abandoned premises" means any premises:

- a. Which has been damaged, or is decaying or falling by:
 - i. Any cause including but not limited to fire, uncommon neglect, water, weather, or earth movement, and
 - ii. Which is not fit for occupancy; or
- b. Has been abandoned or unoccupied by lawful tenants for a period of ninety (90) days or more; or
- c. Has repair costs that equal or exceed the fair market value of the premises once repaired; or
- d. When the owner of the unfit or abandoned premises shows no intention of completing or making substantial progress on completing such repairs within ninety (90) days.

This intention must be manifested in the form of cooperation and/or coordination with City code compliance inspectors, having and offering detailed blueprints if the premises is being rebuilt or repaired, and having obtained permits to demolish, repair, and remove a premises.

- e. For purposes of this Section, ninety (90) days is calculated from the date that the damage occurred.
- f. Alternatively, an abandoned or unfit premises is any premises which:
 - i. Is unfit for human habitation; and
 - ii. Is unfit for other uses due to danger, decay, disrepair, instability, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanliness, inadequate electrical, water or sanitary facilities, inadequate drainage, overcrowding; or
 - iii. Due to other conditions which are inimical to the health and welfare of the City of Renton's residents.

28. "Value" as used herein shall be the valuation placed upon the building or structure for purposes of general taxation.

C. Nuisance Declared Unlawful: It shall be a misdemeanor for any person(s):

1. In control of a premises to permit, suffer, maintain, carry on or allow upon such premises or any portion thereof:

a. A public and/or moral nuisance; or

b. A chronic nuisance premises. If the person in control is not the legal owner, the person in control and owner are both jointly liable for any chronic nuisance. Both the owner and person in control are subject to the provisions and remedies of this Chapter. Application of this Chapter against one party does not preclude application to another party who is an owner or person in control of a chronic nuisance premises.

2. For any person or persons to occupy or allowed to be occupied any premises ordered vacated under this Section. To prove such a violation the City must prove beyond a reasonable doubt that:

a. A person or persons occupied or allowed to be occupied;

b. Any premises;

c. In the City of Renton;

d. That had been ordered vacated under this Section. An order that was made under the authority of or related to this Section, that was valid at the time of the violation, is sufficient to prove this element. It shall not be a defense that the order was subsequently rescinded, reversed, withdrawn or vacated.

3. For any person or persons to permit, suffer, maintain, own, carry on or allow an unfit or abandoned premises as defined in subsection B.27 of this Section.

4. Any person or persons having been found to have violated this subsection C shall be guilty of a misdemeanor punishable pursuant to RMC 1-3-1.¹

D. Prosecution And Penalties: When an Administrator or law enforcement officer in consultation and with the approval of a City prosecutor determines that a chronic nuisance premises exists, or that a chronic nuisance or a nuisance that also constitutes criminal conduct has occurred or is occurring, the City may issue a criminal citation to the person in charge of the chronic nuisance property and to any person involved in the chronic nuisance or nuisance. If the person in charge is someone other than the owner, the City should attempt to notify the owner, based on the address on file with the King County Assessor, about the nature of the nuisance and file criminal charges against person(s) in charge. The City prosecutor's approval shall not be an element of the offense or a basis for appeal.

1. The City may issue a criminal citation when appropriate, including but not limited to the following circumstances:
 - a. When an emergency exists; or
 - b. When a chronic nuisance occurs; or
 - c. When the nuisance cannot be quickly remedied by voluntary correction; or
 - d. When the person in charge knows or reasonably should have known that the nuisance violates a City rule, regulation or ordinance; or
 - e. The person in charge refuses to communicate, cooperate with the City in correcting the nuisance, or is unavailable to the City.
2. The violation of any of the provisions listed above is a misdemeanor and may result in criminal prosecution in addition to possible administrative or civil penalties or costs.
3. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the RMC is committed, continued, or permitted by any such person, and such person shall be punished accordingly and to the full extent of the law.
 - a. The first criminal violation shall have a mandatory minimum sentence of five (5) days in jail without the option of electronic home detention, and the minimum penalty for the first violation shall be five hundred dollars (\$500), not including costs, court costs, fees, and assessments; however, if such person brings the property into full compliance as determined by the prosecutor, the court shall have the authority, at the prosecutor's request, to impose a deferred or suspended sentence in lieu of the mandatory minimum sentence of five (5) days in jail;
 - b. The second criminal violation shall have a mandatory minimum sentence of fifteen (15) days in jail without the option of electronic home detention, and the minimum penalty for the second violation shall be six hundred twenty-five dollars (\$625), not including costs, court costs, fees, and assessments;
 - c. The third criminal violation for any individual shall have a mandatory minimum sentence of thirty (30) days in jail without the option of electronic home detention, and the minimum penalty for the third violation shall be seven hundred fifty dollars (\$750), not including costs, court costs, fees, and assessments; and
 - d. All other criminal violations shall have a mandatory minimum sentence of forty-five (45) days in jail without the option of electronic home detention, and the minimum penalty shall be one thousand dollars (\$1,000), not including costs, court costs, fees, and assessments.

4. Penalties Against The Person In Control: A person in control shall ensure that its rental property is not used for criminal conduct. The failure to eliminate or prevent chronic criminal conduct or chronic criminal use of a premises committed by a tenant, guest, owner or a person in charge on premises may result in a criminal citation to the owner and/or person in control. If a person in control is notified by the City or by law enforcement that criminal conduct has occurred on the premises, the person in control shall take reasonable steps to reduce the likelihood that criminal conduct will reoccur on the premises.

- a. When possible, notification should include the following:
 - i. The name and address of the person in control;
 - ii. The name or names of the persons who were responsible for the nuisance;
 - iii. The day(s) of the nuisance;
 - iv. The street address or other description sufficient for identification of the premises or property upon or within which the nuisance has occurred or is occurring; and
 - v. A concise description of the nuisance and a reference to the violated law, ordinance, rule or regulation.
- b. The notification may be provided whenever the law enforcement officer has at least a reasonable suspicion that criminal conduct has occurred on the rental property.
- c. Notice is deemed provided when it is personally served or served by certified mail to the last known address of the person(s) in charge, landlord, and/or owner of the premises or rental housing or property.
- d. It shall be a misdemeanor for:
 - i. A person in control;
 - ii. To permit, allow, maintain, fail to eliminate nuisances and/or six (6) calls for service that have occurred or exist during any sixty (60)-day period, ten (10) or more calls for service that have occurred or exist during any one hundred and eighty (180)-day period, or fourteen (14) or more calls for service that have occurred or exist during any twelve (12)-month period; and
 - iii. After being sent notice by an Administrator or law enforcement officer.
 - iv. It shall be an affirmative defense that the person in control must plead and prove beyond a preponderance of the evidence that (a) the person has taken reasonable steps to reduce the likelihood that criminal conduct will occur in or on the premises or rental

housing or property, as or consistent with the conditions provided in subsection F.8 of this Section, or (b) had no knowledge of, was not in contempt of court, and will immediately abate any such nuisance that may exist.

E. Additional Enforcement Procedures: The provisions of this Chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by the RCW, RMC or other applicable law, rule or provision.

Chapter 11.45 CHRONIC NUISANCE PROPERTIES

Sections:

- [11.45.010](#) Definitions.
- [11.45.020](#) Violation.
- [11.45.030](#) Declaration of chronic nuisance property and procedure.
- [11.45.035](#) Owner cooperation.
- [11.45.040](#) Correction agreement.
- [11.45.050](#) Penalties.
- [11.45.060](#) Commencement of action—Enforcement.
- [11.45.070](#) Burden of proof.
- [11.45.080](#) Remedies.
- [11.45.085](#) Additional remedies.
- [11.45.090](#) Suspension or revocation of business license.
- [11.45.100](#) Annual reporting required.

11.45.010 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

- (1) “Abate” means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the chief of police determines is necessary in the interest of the general health, safety and welfare of the community.
- (2) “Chief of police” means the chief of the Yakima police department or his or her designees.
- (3) “Control” means the power or ability to direct or determine conditions, conduct, or events occurring on a property.
- (4) “Chronic nuisance property” means:
 - A. A property on which three or more nuisance activities as described in subsection (5) of this section exist or have occurred during any sixty-day period or seven or more nuisance activities have occurred during any twelve-month period, or

B. A property which, upon a request for execution of a search warrant, has been the subject of a determination by a court two or more times within a twelve-month period that probable cause exists that illegal possession, manufacture or delivery of a controlled substance or related offenses as defined in RCW Chapter 69.50 has occurred on the property.

(5) "Nuisance activity" includes:

A. A "most serious offense" as defined in RCW Chapter 9.94A;

B. A "drug-related activity" as defined in RCW 59.18.130;

C. Any of the following activities, behaviors or criminal conduct:

Assault, fighting, harassment or reckless endangerment, as defined in YMC Title [6](#);

Promoting, advancing or profiting from prostitution as defined in RCW Chapter 9A.88;

Prostitution, as defined in YMC Title [6](#);

Permitting prostitution, as defined in YMC Title [6](#);

Obstructing pedestrian or vehicular traffic, as defined in YMC Title [6](#);

Public disturbance noise, as defined in YMC Title [6](#);

Weapons violations, as defined in YMC Title [6](#) or the Revised Code of Washington;

Drug traffic loitering and/or loitering for purposes of prostitution, as defined in YMC Title [6](#);

Criminal-street-gang-related offense and/or pattern of criminal street gang activity, as defined in YMC Title [6](#).

(6) "Owner" means any person who, alone or with others, has title or interest in any property.

(7) "Person" means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent, officer or employee of any of them.

(8) "Person in charge" of a property means the owner and, if different than the owner, any other person in actual or constructive possession of a property, including but not limited to a lessee, tenant, occupant, agent, or manager of a property under his or her control.

(9) "Property" means any land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.

(10) "RCW" means the Revised Code of Washington.

(11) "YMC" means the Yakima Municipal Code. (Ord. 2010-18 § 1 (part), 2010).

11.45.020 Violation.

A. Any property within the city of Yakima which is a chronic nuisance property is in violation of this chapter and subject to its remedies;

B. Owners and other persons in charge who permit property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies; and

C. An owner who fails to comply with YMC [11.45.035](#) is in violation of this chapter and may be subject to penalties pursuant to YMC Chapter [5.52](#). (Ord. 2010-18 § 1 (part), 2010).

11.45.030 Declaration of chronic nuisance property and procedure.

A. The chief of police may declare that a property is a chronic nuisance property, as defined in this chapter, when there are specific facts and circumstances documenting (1) the occurrence of three or more nuisance activities on a property within sixty days or seven or more nuisance activities within a twelve-month period, or (2) activity on a property as described in YMC [11.45.010](#)(4)(B). The chief of police shall provide written notice of this declaration to the persons in charge of the property. The notice shall be sent by first class mail or personally served, and a copy shall be sent by certified mail. The notice shall contain:

1. The street address or a legal description sufficient for identification of the property;
2. A declaration that the chief of police has determined the property has become a chronic nuisance property with a concise description of the nuisance activities that exist or that have occurred;

3. A notice that the owner and other persons in charge of the property are subject to monetary penalties as set forth in YMC [11.45.050](#);
4. A demand that the owner and other persons in charge respond to the chief of police within seven days of service of the notice to discuss a course of action to correct the nuisance;
5. A notice that, if the person in charge does not respond to the chief of police as required in this section, or if the matter is not voluntarily corrected to the satisfaction of the chief of police, the city may file an action to abate the property as a chronic nuisance property pursuant to YMC [11.45.060](#) and/or take other action against the property or person in charge.

B. When a notice is issued pursuant to this section to a person in charge, other than an owner or an owner's agent, who has permitted a property to become a chronic nuisance property, a copy of such notice shall also be sent by first class mail or personally served on the owner of the property, and a copy shall be sent by certified mail.

C. If the owner or person in charge responds as required by the notice issued pursuant to subsection A of this section and agrees to a course of action to abate the nuisance activities, a written correction agreement conforming to the requirements of YMC [11.45.040](#) shall be executed.

D. If (1) the agreed course of action does not result in the abatement of nuisance activities to the satisfaction of the chief of police within thirty days of issuance of the notice pursuant to subsection A of this section, or within such longer period as permitted in writing by the chief of police, or (2) the person in charge fails to respond as required by the notice, the chief of police may refer the matter to the city attorney for initiation of proceedings pursuant to YMC [11.45.060](#). (Ord. 2010-18 § 1 (part), 2010).

11.45.035 Owner cooperation.

An owner who receives a copy of a notice pursuant to YMC [11.45.030](#)(B) describing a chronic nuisance property permitted by a person in charge other than the owner or the owner's agent shall promptly take all reasonable steps requested in writing by the chief of police to assist in abatement of the nuisance property. Such reasonable steps may include the owner taking all actions and pursuing all remedies, including pursuing eviction of the person in charge, that are (1) available to the owner pursuant to any lease or other agreement, and (2) consistent with state and local laws, including but not limited to RCW 59.18.580, the Victim Protection Limitation on Landlord's Rental Decisions. (Ord. 2010-18 § 1 (part), 2010).

11.45.040 Correction agreement.

A. A correction agreement is a contract between the city and the person in charge of the chronic nuisance property in which such person agrees to promptly take all lawful and reasonable actions, which shall be set forth in the agreement, to abate the nuisance activities within a specified time and according to specified conditions. The agreement shall be signed by the person in charge and, if different, the owner. The agreement shall include the following:

1. The name and address of the person(s) in charge of the property;
2. The street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring;
3. A description of the nuisance activities;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
5. An agreement by the person in charge that the city may inspect the property as may be necessary to determine compliance with the correction agreement;
6. An agreement by the person in charge that the city may abate the nuisance and recover its costs, expenses and monetary penalties pursuant to this chapter from the person in charge for abating the nuisance if the terms of the correction agreement are not met; and
7. When a person in charge, other than an owner or an owner's agent, has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the chief of police pursuant to YMC [11.45.035](#). (Ord. 2010-18 § 1 (part), 2010).

11.45.050 Penalties.

A. Except as provided in this section, in addition to any other sanction or remedial procedure that may be available, the person in charge is subject to a penalty of up to five hundred dollars per day from the date of the notice issued pursuant to YMC [11.45.030](#)(A) until the chief of police confirms that the property is no longer a chronic nuisance property.

B. If the agreed course of action results in the abatement of nuisance activities to the satisfaction of the chief of police within thirty days of the notice issued pursuant to YMC [11.45.030\(A\)](#), or such longer period allowed by the chief of police pursuant to YMC [11.45.030\(D\)](#), the matter shall not be referred to the city attorney and the person in charge shall not be subject to any penalty pursuant to this chapter.

C. An owner who fails to comply with YMC [11.45.035](#) is subject to a civil penalty of up to twenty-five thousand dollars. (Ord. 2010-18 § 1 (part), 2010).

11.45.060 Commencement of action—Enforcement.

Upon referral pursuant to YMC [11.45.030](#), the city attorney may initiate an action in any court of competent jurisdiction to abate a chronic nuisance property, to impose penalties pursuant to this chapter, to seek alternative remedies under city or state laws and seek any other relief authorized by law. (Ord. 2010-18 § 1 (part), 2010).

11.45.070 Burden of proof.

In an action against a person in charge to abate a chronic nuisance property or to recover penalties authorized by this chapter, the city shall have the burden of proof to show by a preponderance of the evidence that the property is a chronic nuisance property pursuant to this chapter.

In an action against an owner to recover penalties authorized by YMC [11.45.050\(D\)](#), the city shall have the additional burden to prove by a preponderance of the evidence that the owner failed to comply with YMC [11.45.035](#). Copies of police incident reports and reports of other city departments documenting nuisance activities shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions. (Ord. 2010-18 § 1 (part), 2010).

11.45.080 Remedies.

A. If the court determines a property is a chronic nuisance property pursuant to this chapter, the court may order any of the following: (1) order the person in charge to immediately abate nuisance activity from occurring on the property, (2) order that the chief of police shall have the right to inspect the property to determine if the court's orders have been complied with, (3) impose a penalty of up to five hundred dollars per day against the person in charge for each day from the date the notice pursuant to YMC [11.45.030\(A\)](#) was issued until the chief of police confirms that the property is no longer a chronic nuisance property, (4) make any other order that will reasonably abate nuisance activities from occurring on the property, including authorizing the city to take action

to abate nuisance activities from occurring upon the property if other court orders are not complied with or do not abate nuisance activity on the property and providing that the costs of such city action are to be paid for by the person in charge of the property.

B. If the court finds that an owner failed to take all reasonable steps requested in writing pursuant to YMC [11.45.035](#), the court may impose a civil penalty up to twenty-five thousand dollars. (Ord. 2010-18 § 1 (part), 2010).

11.45.085 Additional remedies.

A. In addition to the remedies authorized by YMC [11.45.080](#), if as part of its order abating a chronic nuisance property, the court orders a person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation assistance not to exceed three thousand three hundred dollars to any tenant (1) who must relocate because of the order of abatement, and (2) the court finds not to have caused or participated in nuisance activities at the property.

B. For purposes of this section, the term “tenant” shall have the meaning as set forth in RCW 59.18.030(8). (Ord. 2010-18 § 1 (part), 2010).

11.45.090 Suspension or revocation of business license.

In addition to any other remedy that is authorized by this chapter or other laws, upon the finding by a court that a property is a chronic nuisance property pursuant to this chapter, the person in charge is subject to the suspension or revocation of a business license or other license issued by the city and required at such property, including but not limited to licenses issued pursuant to YMC Title [5](#). (Ord. 2010-18 § 1 (part), 2010).

11.45.100 Annual reporting required.

The chief of police, with assistance of the city attorney, shall provide an annual report on the implementation of this chapter. The report shall list each instance in which the chief of police declared a property to be a chronic nuisance property and provided written notice to the persons in charge of the property. For each instance, the report shall describe:

A. The location and use of the property (i.e., whether residential or commercial, and if residential the number of units, and if commercial the size and nature of the commercial use).

B. The nuisance activities on which the declaration was based.

C. The administrative and legal process resulting from the notice, including:

- 1) Whether the notice resulted in a written correction agreement;
- 2) Whether the notice resulted in the abatement of nuisance activities to the satisfaction of the chief of police; and, if not
- 3) Whether the chief of police referred the matter to the city attorney for initiation of proceedings; and, if so
- 4) Whether the city attorney initiated proceedings; and, if so
- 5) Whether a court determined the property to be a chronic nuisance property; and, if so
- 6) What orders the court made, including penalties, other orders to abate the nuisance activities, or relocation assistance to tenants; and
- 7) Whether the city revoked any business licenses on the property.

D. A summary of the consequences of the declaration to date, including actions taken by persons in charge to abate the nuisance activities, whether these included the eviction of tenants, and whether the nuisance activities appear to be permanently abated.

The report shall also include brief assessments by the chief of police and the city attorney on the overall effectiveness of the ordinance in reducing the problems resulting from chronic nuisance properties.

The chief of police and city attorney shall provide the report to the city council in February of each year on the chronic nuisance property declarations in the prior calendar year. Any declarations not fully resolved by the end of the calendar year shall be described again in the following year's report. (Ord. 2010-18 § 1 (part), 2010).

20.30.740 Declaration of public nuisance, enforcement.

A. A code violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:

1. Any City land use and development ordinances or public health ordinances;
2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
3. Violation of any of the codes adopted in Chapter [15.05](#) SMC;
4. Violation of provisions of Chapter [12.15](#) SMC, Use of Right-of-Way;
5. Any accumulation of refuse, except as provided in Chapter [13.14](#) SMC, Solid Waste Code;
6. Nuisance vegetation;
7. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property;
8. Violation of any of the provisions of Chapter [13.10](#) SMC, Surface Water Utility; and
9. Violations of any of the provisions of Chapter [13.12](#) SMC, Floodplain Management.

B. No act which is done or maintained under the express authority of a statute or ordinance shall be deemed a public nuisance. (Ord. 641 § 4 (Exh. A), 2012; Ord. 581 § 1 (Exh. 1), 2010; Ord. 531 § 1 (Exh. 1), 2009; Ord. 466 § 2, 2007; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 251 § 2(E), 2000; Ord. 238 Ch. III § 10(d), 2000. Formerly 20.30.750).