

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

|                      |  |
|----------------------|--|
| <b>AGENDA TITLE:</b> | Discussion of Proposed Ordinance No. 675 - Chronic Nuisance Property   |
| <b>DEPARTMENT:</b>   | Planning and Community Development<br>Shoreline Police<br>City Attorney's Office   |
| <b>PRESENTED BY:</b> | Kristie Anderson, Code Enforcement Officer<br>Shawn Ledford, Shoreline Police Chief<br>Julie Ainsworth-Taylor, Assistant City Attorney   |
| <b>ACTION:</b>       | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion<br><input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

**PROBLEM/ISSUE STATEMENT:**

On July 1, 2013, the Council discussed the development of a chronic nuisance ordinance and asked staff to prepare a draft ordinance for Council's consideration. Currently the City does not have adequate enforcement tools to hold property owners and other responsible individuals, such as tenants, accountable for alleviating repeated occurrences of both criminal and civil violations on their property. A chronic nuisance ordinance is a tool that several area jurisdictions have employed to effectively eliminate repeat violations at chronic nuisance properties. Proposed Ordinance No. 675 (Attachment A) would provide this tool for Shoreline.

**RESOURCE/FINANCIAL IMPACT:**

Although there would be no budgetary impacts to adopting the chronic nuisance ordinance, existing staff resources from the Police Department, Planning and Community Development Department, Community Services Division, and City Attorney's Office would be impacted when the ordinance is utilized. However, it is anticipated that the utilization of a chronic nuisance ordinance will help resolve repetitive criminal and civil code violations more quickly at chronic nuisance properties, thereby reducing the total number of service calls and enforcement actions to those properties. Thus, the ultimate result may actually be a reduction in staff resources.

**RECOMMENDATION**

There is no formal action required by Council this evening. Staff recommends that Council discuss proposed Ordinance No. 675 and direct staff to incorporate any modifications Council may have to the draft ordinance and return February 24, 2014 for potential adoption.

Approved By:        City Manager **DT**    City Attorney **IS**

## **INTRODUCTION**

In Shoreline, some properties are used for unlawful criminal purposes or in a manner that otherwise violates Shoreline's Municipal Code. In some cases, the property owners are the actual perpetrators of these crimes and violations and continue them despite repeated and continued Police and Code Enforcement efforts. In other cases, these are rental properties at which the tenants are the perpetrators of chronic nuisance activities for which the property owner may or may not be aware. In either situation, 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 responded to by the police, fire, and/or other City departments. The numerous service calls generated by chronic nuisance properties create a financial burden on the City and create a negative living environment for surrounding neighbors.

Currently, the City does not have regulations in place that provide adequate tools to hold property owners and/or their tenants responsible for correcting chronic nuisances when illegal activities and other code violations repeatedly occur on their property. On July 1, 2013, the Council discussed the development of a chronic nuisance ordinance to address chronic nuisance properties and directed staff to bring back an ordinance for Council consideration. The staff report for this discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2013/staffreport070113-9a.pdf>

## **DISCUSSION**

### **Prior Council Discussion and Other Considerations**

Following the July 1 discussion with the Council, Council provided staff with the following feedback and direction. Also provided below is staff's analysis and response to this feedback, along with other considerations that helped shape the proposed ordinance.

1. Definition of "chronic nuisance property"
  - One councilmember suggested a 24 month period as opposed to a 12 month period in defining a "chronic nuisance property"; and
  - One councilmember suggested adding 10 activities within seven years in defining a "chronic nuisance property".

In the draft ordinance, a chronic nuisance property is defined in subsection 9.25.020.B.1. The number of nuisance activity occurrences has been modified slightly from what was initially proposed. The ordinance now states that three or more nuisance activities must occur during any 180 day period or five or more must occur during any twelve-month period. Having a seven year tracking period as was proposed by Council seemed excessively long, and staff believes that this ordinance

should eliminate the need for such a long time period. Staff did however incorporate Council's suggestion in subsection 9.25.020.B.2 regarding the provision where two or more search warrants are executed. This provision has been increased from 12 months to 24 months, as the increase better reflects actual behavior patterns.

2. Council was divided on what should be included on the list of "nuisance activities" (subsection 9.25.020.E.3), which the council called "triggers".
  - Two councilmembers indicated the triggers should be criminal only;
  - Two councilmembers indicated support for triggers that included criminal and civil violations of the code;
  - Two councilmembers wanted to see a more limited list of civil code triggers; and
  - One councilmember wanted staff to explore "weighting" the nuisance activities so that a criminal violation would be considered more severe than a civil violation.

In response to concerns that the list of nuisance activities was too broad, staff has shortened the list of violations from the State criminal code (RCW Title 9) that will be defined as nuisance activities. Staff has also reduced the list of civil codes violations. Staff reviewed the list to reduce the kinds of violations to those that were most serious and directly impacted the surrounding community. As examples, staff removed liquor related offenses and malicious mischief as nuisance activities. Staff also reduced which activities under the animal control code could constitute a nuisance activity to two sections, and reduced the violations considered nuisance activities to three sections of the health code.

Staff also recommends continuing to include a mix of criminal and civil violations in the nuisance activity definition, as both types of activities can negatively impact the surrounding community. By including violations of both criminal and civil codes, a problem property can be recognized in a more timely fashion whereby the City can address the growing nuisance sooner.

Staff has also added the following language to this section of the ordinance to address concern that victims may hesitate to call for help if they fear their residences might be declared public nuisance properties:

*"Police incident reports generated by calls for service to aid victims on the property shall not be used to determine a chronic nuisance property."*

3. Some Council members were concerned that the process outlined in the July 1<sup>st</sup> staff report provided the Police Chief with too much discretion in determining which properties were chronic nuisance properties and that criterion is necessary to make this determination. Without criteria the decision could be viewed as arbitrary.

The draft ordinance addresses this in subsection 9.25.040.A, which reads:

*"The Police Chief and the Director shall review official documentation such as police incident reports, notices and orders to correct, and case files to determine if a property meets the definition of a chronic nuisance property as defined in this chapter."*

Police staff will submit to the Police Chief both police and code enforcement case files of suspected chronic nuisance properties. The Police Chief together with the Director of the Department of Planning and Community Development is tasked with ensuring that the property being referred meets the codified definition of chronic nuisance property as stated in subsection 9.25.020.B of the ordinance.

If the property meets the definition of a chronic nuisance property, the Police Chief and the Planning and Community Development Director will jointly determine the property is a chronic nuisance property. This is not a subjective decision, but rather a review of the facts and an objective conformance with the Code.

4. The original concept for the draft ordinance presented to council in July of 2013 was also presented to the Planning Commission on December 19, 2013 to provide information and relay public comment to the City Council (minutes of this meeting are attached to this staff report as Attachment B). The original course of action had the Police Department monitoring the criminal violations through the step of developing a Voluntary Compliance Plan with the parties responsible for the property. If the responsible party did not bring the property into compliance, then the Police Department would forward the violation file to the Code Enforcement section of the Planning and Community Development Department for civil enforcement. This proposed process required action by the Planning Commission to amend the Development Code section titled "Declaration of public nuisance" (section 20.30.740) to include this new ordinance in Title 9 of the municipal code.

The current version of the draft ordinance no longer includes involvement of the Code Enforcement section of Planning and Community Development for civil enforcement. The current version places enforcement in the hands of the Police Chief and Director of Planning and Community Development with the issuance of a Notice of Determination of Chronic Nuisance Property followed by referral to the City Attorney if the property owner/tenant fail to take remedial steps.

5. Finally, the local chapter of the American Civil Liberties Union (ACLU) contacted the Department of Planning and Community Development to provide early input as staff developed the draft chronic nuisance ordinance.

The ACLU had concerns that the proposed ordinance could be too far reaching, not contain adequate due process, not adequately protect innocent victims, and give excessive discretion to the Chief of Police. Staff believes we have addressed these concerns within the changes to the draft ordinance detailed above. Staff offered and will send a copy of this staff report to the ACLU to share information and receive feedback from the ACLU on the updated version of the ordinance.

### **Components of a Chronic Nuisance Ordinance**

The following information provides additional context of how staff developed the content of proposed Ordinance No. 675.

Staff began by reviewing the chronic nuisance regulations from the following cities: Renton, Burien, Everett, Seattle, Tacoma, Yakima, and Bremerton. The composition of

these regulations was largely the same, as each jurisdiction's ordinance included 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.

Proposed Ordinance No. 675 is largely modeled on the City of Bremerton's chronic nuisance regulations, but does incorporate elements from some of the other jurisdictions' regulations.

#### Definition of a Chronic Nuisance Property/Premises

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

#### Defining Nuisance Activities

All chronic nuisance regulations list or reference 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), cities' criminal codes, and sections of cities' municipal codes, primarily on construction, land use, solid waste, fire, animals, and health. Staff did note that regulations either fall into one of two categories – either nuisance activities being defined solely as criminal-based or being a mixture of criminal and civil.

Proposed Ordinance No. 675 represents the later.

#### 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. The Police Department and the Planning and Community Development Department will make the initial determination of a chronic nuisance property by following the five basic steps outlined in subsection 9.25.040.A of the proposed ordinance. If the responsible party is uncooperative, failing to respond to the determination issued by these departments or failing to bring the property into compliance, then the matter will be referred to the City Attorney's Office for further enforcement action, as outlined in subsection 9.25.070.C of the proposed ordinance.

### **COUNCIL GOAL ADDRESSED**

This item addresses Council 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 by alleviating citizen fears caused by the presence of repetitive illegal activity promulgated by residents or proprietors of a particular property.

### **RESOURCE/FINANCIAL IMPACT**

Although there would be no budgetary impacts to adopting the chronic nuisance ordinance, existing staff resources from the Police Department, Planning and Community Development Department, Community Services Division, and City Attorney's Office would be impacted when the ordinance is utilized. However, it is

anticipated that the utilization of a chronic nuisance ordinance will help resolve repetitive criminal and civil code violations more quickly at chronic nuisance properties, thereby reducing the total number of service calls and enforcement actions to those properties. Thus, the ultimate result may actually be a reduction in staff resources.

### **RECOMMENDATION**

There is no formal action required by Council this evening. Staff recommends that Council discuss proposed Ordinance No. 675 and direct staff to incorporate any modifications Council may have to the draft ordinance and return February 24, 2014 for potential adoption.

### **ATTACHMENTS**

Attachment A: Proposed Ordinance No. 675

Attachment B: Minutes of Planning Commission meeting - December 19, 2013

## **Shoreline Municipal Code**

### **Chapter 9.25 CHRONIC NUISANCE PROPERTY**

#### Sections:

- 9.25.010 Purpose.
- 9.25.020 Definitions.
- 9.25.030 Chronic nuisance activities - Violation.
- 9.25.040 Determination of chronic nuisance property.
- 9.25.050. Appeal of Chronic Nuisance Property Notice.
- 9.25.060 Voluntary Compliance Plan.
- 9.25.070 Enforcement.
- 9.25.080 Additional Enforcement Provisions.

#### **9.25.010 Purpose.**

Chronic nuisance properties present significant health, safety, and welfare concerns with a tremendous negative impact upon the quality of life in the neighborhoods where they are located. This chapter provides a remedy for chronic nuisance activities that repeatedly occur or exist on such properties.

#### **9.25.020 Definitions.**

For purposes of this chapter, the following words and phrases shall mean:

- A. **“Chief of Police”** means the Chief of Police for the City of Shoreline or, his/her designee.
- B. **“Chronic nuisance property”** means a property on which:
  - 1. Three (3) or more nuisance activities described in SMC 9.25.020(E) have occurred during any one hundred eighty (180) day period or five (5) or more nuisance activities have occurred during any twelve (12) month period; or
  - 2. A property upon which a search warrant has been executed two (2) or more times within a twenty-four (24) month period.

- C. **“Control”** means the power or ability to direct or determine conditions and/or activities located on or occurring on a property.
- D. **“Director”** means the City of Shoreline Director of Planning and Community Development or, his/her designee.
- E. **“Chronic Nuisance activity”** means:
  1. The following criminal activities, behaviors or conduct that results in a police incident report:
    - a. Harassment offenses as defined in chapter 9A.46 RCW.
    - b. Assault or reckless endangerment as defined in chapter 9A.36 RCW.
    - c. Disorderly conduct as defined in Section 9.10.320 SMC.
    - d. Indecent exposure and prostitution offenses as defined in chapter 9A.88 RCW and section 9.10.550 SMC.
    - e. Fraud-related offenses as defined in chapter 9A.60 RCW.
    - f. Possession, manufacture or delivery of a controlled substance or related offenses as defined in chapter 69.50 RCW and violations relating to Precursor Drugs as defined in chapter 69.43 RCW.
    - g. Violation of stay out of areas of prostitution (SOAP) orders as defined in SMC 9.10.560.
    - h. Gambling-related offenses as defined in chapters 9.46 and 9.47 RCW.
    - i. Gang-related activity as defined in Section 9.94A.030 RCW.
    - j. Firearms and dangerous weapons offenses as defined in chapter 9.41 RCW.
    - k. Public disturbance noises as defined in chapter 9.05 SMC.
    - l. Stolen property and trafficking of stolen property offenses as defined in chapters 9A.56 and 9A.82 RCW.
    - m. Execution of criminal arrest or criminal arrests from property.
    - n. Human trafficking as defined in section 9A.40.100 RCW and 9A.88.060 RCW.
    - o. Any attempt, solicitation or conspiracy to commit any of the above activities, behaviors or conduct, as defined in Section 9.10.110 SMC.
  2. Activities, behavior or conduct that is contrary to any of the following:
    - a. SMC 15.05 Construction and Building Codes for which a Notice and Order has been issued in accordance with SMC 20.30.760 or an infraction has been issued in accordance with SMC 20.30.770(A);
    - b. Animal control code SMC Title 6.30.010 (A)(6)(7)(8) Nuisances prohibited; and SMC Title 6.30.020(A)(1)(2)(3) Cruelty to animals prohibited; for which a Notice and Order has been issued in accordance with SMC 6.40.030; or
    - c. Code of the King County Board of Health, Chapter 8.06 Rodent Control; Chapter 11.01 Contaminated Property; Chapter 13.04 On-Site Sewage
  3. Multiple nuisance activities contained in a single police incident report are not counted as separate nuisance activities.
  4. Police incident reports generated by calls for service to aid victims on the property shall not be used to determine a chronic nuisance property.



- F. **“Person in charge”** means any person in actual or constructive possession of the property, including but not limited to an owner, lessee, tenant, occupant, agent, or manager with control of the property.

#### **9.25.030 Chronic nuisance activities - Violation.**

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

#### **9.25.040 Determination of chronic nuisance property.**

- A. The Police Chief and the Director shall review official documentation such as police incident reports, notices and orders to correct, and case files to determine if a property meets the definition of a chronic nuisance property as defined in this chapter.
- B. If the Police Chief and the Director determine that the property is a chronic nuisance property, the property owner of record and person in charge of the property shall be served with a Notice of Determination of Chronic Nuisance Property with the following information:
1. The name and address of the person to whom the letter is issued;
  2. The location of the subject property by address or other description sufficient for identification of the subject property;
  3. A statement that the City has determined the property to be a chronic nuisance property;
  4. A concise description of the nuisance activities upon which the determination was based, and documentation of the chronic nuisance activities including police case number(s), police incident report numbers, and City of Shoreline code enforcement case numbers;
  5. A demand that the property owner of record or the person in charge of the property respond within seven (7) days of service to the Notice as directed to abate chronic nuisances which may include submission of a proposed compliance plan for City approval;
  6. A warning that the property owner of record and person in charge of the property are potentially civilly and criminally liable and subject to civil infractions and abatement at the owner's expense for continuing to allow chronic nuisance activities, as defined in this chapter, to occur upon the property;
  7. A statement advising that any person named in the Notice of Determination of Chronic Nuisance Property or having any record or equitable title in the property against which the Notice of Determination is recorded may appeal from the Notice to the City of Shoreline Hearing Examiner within fourteen (14) calendar days of the date of issuance of the Notice;
  8. A statement advising that a failure to appeal the Notice of Determination of Chronic Nuisance Property within the applicable time limits renders the Determination a final determination that the conditions described in the Notice existed and constituted a Chronic Nuisance, and that the named party is liable as a responsible party; and
  9. Name and telephone number of the City representative who is responsible for handling inquiries regarding the Notice including a statement advising the property owner and person in charge of the property of his or her duty to notify the City of any actions taken to achieve compliance with the Notice of Determination of Chronic Nuisance Property.

- C. The Notice of Determination of Chronic Nuisance shall be served on the property owner of record and the person in charge of the property by the following methods:
1. By posting the Notice of Determination of Chronic Nuisance Property in a conspicuous place on the property where the violation occurred and concurrently mailing the Notice to the property's address; and
  2. By personal service, or
  3. By mailing a copy by certified mail return receipt requested, to the property owner of record at the address shown on King County tax records and to the person(s) in charge of the property at his/her last known address or at the address of their place of business.

#### **9.25.050 Appeal of Chronic Nuisance Property Notice.**

Any person named in a Notice of Determination of Chronic Nuisance Property may file a notice of appeal to the Shoreline Hearing Examiner within fourteen (14) calendar days from the date of service of the Notice of Determination of Chronic Nuisance. Appeals shall be filed in writing with the City Clerk as provided in SMC 20.30.220 and shall be conducted as provided in SMC 20.30.790.

#### **9.25.060 Voluntary Compliance Plan.**

As provided in SMC 9.25.040(B)(5), a Voluntary Compliance Plan may be approved to remedy the chronic nuisance activities. The property owner of record or the person in charge of the property, if not the owner, is responsible for development and submittal of a written compliance plan acceptable to the City. The Police Chief, and the Director, in consultation with the City Attorney, shall review the plan for approval. The plan shall establish, at a minimum, the necessary corrective action(s) to be taken to abate the chronic nuisance activity or activities, deadlines for implementation and completion of the plan, and an acknowledgment by the property owner and person in charge of the property that the City may abate the chronic nuisance(s) and recover its costs, expenses, and penalties pursuant to local and state law if the terms of the plan are not met.

#### **9.25.070 Enforcement.**

- A. Any property owner of record and person in charge of property that has been determined to be a chronic nuisance property is in violation of this chapter and subject to the remedies described herein unless he/she can show that he/she is in compliance with a Voluntary Compliance Plan, as described in SMC 9.25.060.
- B. If the property owner of record or the person in charge of the property does not respond to a Notice of Determination of Chronic Nuisance Property within the time proscribed, the person responsible shall be issued a civil infraction, punishable by a maximum penalty of one thousand dollars (\$1,000.00).
- C. If the person responsible does not respond to the issued infraction or continues to violate the provisions of this chapter, including the Voluntary Compliance Plan, the matter shall be referred to the Office of the City Attorney for further action. The City Attorney may initiate legal action to abate the chronic nuisance activity which may include vacating any building

and securing it against unauthorized access, use, and occupancy for a period of up to one year, with costs of abatement assessed against the owner and, if applicable, payment of relocation assistance costs as provided in SMC 15.05.070(D), 20.30.770(D)(5), and 20.30.770(E)(3).

**9.25.080 Additional Enforcement Provisions.**

- A. 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 summary abatement under SMC 20.30.770(E) and an order of the fire code official under the Shoreline 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.
- B. Whenever the city issues a Notice of Determination of Chronic Nuisance Property to more than one person because of a violation of this chapter, those persons shall be jointly and severally liable.
- C. The failure of the City to prosecute an individual for violation(s) constitution chronic nuisance activities is not a defense to an action under this chapter.
- D. The Police Chief and the Director shall have the authority to promulgate procedures for administering this chapter.

# DRAFT

## CITY OF SHORELINE

### SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

December 19, 2013  
7:00 P.M.

Shoreline City Hall  
Council Chamber

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#### **Commissioners Present**

Commissioner Scully, Chair Pro Tem  
Commissioner Craft  
Commissioner Montero  
Commissioner Wagner

#### **Staff Present**

Rachael Markle, Director, Planning and Community Development  
Steve Szafran, Senior Planner, Planning and Community Development  
Lisa Basher, Planning Commission Clerk

#### **Commissioners Absent**

Chair Moss  
Vice Chair Esselman  
Commissioner Maul

#### **CALL TO ORDER**

The Planning Commission Clerk, Lisa Basher, called the regular meeting of the Shoreline Planning Commission to order at 7:01 p.m. and requested nominations for a Commissioner to chair the meeting.

**COMMISSIONER CRAFT NOMINATED COMMISSIONER SCULLY TO SERVE AS CHAIR FOR THE DECEMBER 19<sup>TH</sup> MEETING. COMMISSIONER MONTERO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

#### **ROLL CALL**

Upon roll call by the Commission Clerk the following Commissioners were present: Commissioners Craft, Montero, Scully and Wagner. Chair Moss, Vice Chair Esselman, and Commissioner Maul were absent.

#### **APPROVAL OF AGENDA**

The agenda was accepted as presented.

#### **APPROVAL OF MINUTES**

The minutes of December 5, 2013 were adopted as submitted.

## **GENERAL PUBLIC COMMENT**

No one in the audience indicated a desire to address the Commission during this portion of the meeting.

## **STUDY ITEM: DEVELOPMENT CODE AMENDMENT – CHRONIC NUISANCE ORDINANCE**

### **Staff Presentation**

Ms. Markle advised that on January 27<sup>th</sup>, the City Council will be considering amendments to Title 9 of the Shoreline Municipal Code (SMC) to add a Chronic Nuisance Ordinance, which is intended to create a means for the City to enforce protection against chronic nuisance properties. While the bulk of the amendments are to Title 9 and under the purview of the City Council, the proposal also includes an amendment to Title 20, (Development Code), which requires the Planning Commission to hold a public hearing and provide the City Council with a recommendation prior to a Council decision.

Ms. Markle noted that the proposed ordinance would support City Council Goal 5, which calls for promoting and enhancing the City's safe community and neighborhood programs and initiatives. She explained that while the Planning and Community Development Departments Customer Response Team and the Police Department have been working together to resolve long-standing issues on properties that are being used for unlawful criminal purposes or in a manner that otherwise violates Shorelines Municipal Code, the City does not currently have laws in place that provide adequate tools to hold property owners responsible for correcting chronic nuisances when illegal activities or other code violations repeatedly occur on a property. She shared a few chronic nuisance cases from the past that the City has worked years to resolve.

Ms. Markle advised that staff reviewed chronic nuisance ordinances from other jurisdictions. She noted that each of these ordinances included the following components:

- **A definition of what constitutes a chronic nuisance property.** The jurisdictions primarily defined a chronic nuisance in terms of the number and types of nuisance activities that have occurred or exist within a defined time period. As per the proposed ordinance, a “chronic nuisance” property would be defined as “a property in which three or more nuisance activities, as described in Title 9, exist or have occurred during any 180-day period; or seven or more nuisance activities have occurred in a 12-month period; or a property in which a request of execution of a search warrant has been the subject of a determination by a court two or more times within a 24-month period that probable cause exists that illegal possession, manufacture, or delivery of controlled substances or related offenses as defined by RCW Chapter 69.50 has occurred on the property.”
- **A definition of “Nuisance Activity.”** Each jurisdiction reviewed included 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 the Revised Code of Washington (RCW) 7.48 and 9.66. In

addition to criminal laws, the City's list would include construction, land-use, solid waste, fire, surface water, animal, and health code violations.

- **A process for enforcing and remedying the chronic nuisance.** Adoption of a Chronic Nuisance Ordinance would make the act of repeatedly violating various City and State Codes an enforceable act itself. In most jurisdictions researched, enforcement is handled by the police department. Staff is recommending a hybrid approach that mirrors how the City handles enforcement of other codes. As proposed, the Police Department would make the initial determination of a chronic nuisance property. If the Police Department determines that a property meets the level of being a "chronic nuisance," a letter would be sent to the property owner that includes a description of the nuisances and a demand for a meeting between the Police Department and the owner or person in charge. At the meeting, the Police Department would work with the property owner to develop a timeline and plan to abate the chronic nuisance. If the property owner or person in charge does not enter into and fully complete the agreement, enforcement would be transferred to the Code Enforcement Team via issuance of a Notice and Order and the steps codified in SMC 20. If the property owner does not comply with the Notice and Order, the matter would be turned over to the City's legal department.

Ms. Markle said the amendment currently before the Commission would add "Violation of any of the provisions of Chapter 9.25 SMC, Chronic Nuisance Property" to the list of violations in SMC 20.30.740(A).

Ms. Markle explained that a new twist to the proposed amendments came up in a meeting yesterday with Planning and Community Development, police, and legal department staffs. It was discussed that it might be possible to skip the Notice and Order process altogether and go straight to court since the steps taken by the Police Department can mimic those of the Notice and Order and it can include an appeal process. She summarized that, at this point, staff is not certain whether amendments to Title 20 will be necessary. She advised that the next step is to confirm which enforcement route will be best. If amendments to Title 20 are necessary, a public hearing would be scheduled before the Planning Commission on February 6<sup>th</sup>. The Council will discuss the proposed amendments on January 27<sup>th</sup>, with anticipated adoption on February 24<sup>th</sup>.

At the request of the Commission, Ms. Markle reviewed that the purpose of the study session on Title 20 is for the Commission to take public comment and ask questions of staff. A public hearing on the proposed amendment to Title 20, if it is deemed necessary, would take place on February 7<sup>th</sup>. After the public hearing, the Commission would forward a recommendation regarding the proposed amendment to Council. Commissioner Wagner reminded the Commissioners that their recommendation would be limited to the proposed amendments to Title 20. The proposed amendments to Title 9 are outside of the Commission's purview.

### **Public Comment**

**Robert Scott, Shoreline**, said he supports the proposed ordinance, but wants to make sure that noise is part of the package and it can be enforced. He expressed concern that although the police have been called on numerous occasions to address noise issues related to the tavern located nearby his properties

at Echo Lake, no citations have been issued and the problem continues. One of his renters moved out, which resulted in loss of income for him.

**Michael Read, Shoreline**, shared his experience with a rental property in his neighborhood in North City that fit all of the criteria outlined in the staff's presentation: drug activity, prostitution, illegal car repair, domestic violence, noise, etc. He agreed that noise should be included on the list of chronic nuisances. Trespassing should also be included. He noted the level of angst that exists for residents who live near properties considered to be chronic nuisances. These situations make it difficult for surrounding neighbors to enjoy their properties. He noted that after failed attempts to work with the property owner, they contacted the City for help. However, the Police Department did not have the tools to force the landlord to evict the tenants. He hopes the proposed methodology gives the City the ability to address chronic nuisance situations in the future. It is important to add as many tools as possible for the City to deal with nuisances quickly.

**Melinda Read, Shoreline**, added that she and her husband own two rental homes in Shoreline, and she believes the tools proposed in the ordinance will bring absentee landlords around to realizing that people who live in the City won't abide with nuisance behavior any longer. She said her current home is surrounded by rental properties, and chronic nuisance properties make it uncomfortable for adjacent property owners. Landowners need to take responsibility for their tenants and be aware of what is going on related to their properties.

Ms. Markle said that, at this time, trespassing is not included in the ordinance. She agreed to research the possibility of adding it to the list of chronic nuisances. She encouraged members of the public to also attend the public hearing and share their thoughts about the proposed amendments.

### **Commission Discussion**

Commissioner Wagner expressed concern that the proposed amendments would simply "push situations outside of the City's boundaries" and not do anything to remedy the problem. She suggested the City take a more holistic approach. For example, they could provide tools to help landlords understand how to get leases that allow them to be more involved. This could result in better outcomes when bad situations come up. Ms. Markle said the proposed ordinance would allow the City to deal with the "one house per year" that is criminally blatant, and she did not believe an educational program for landlords would resolve these infrequent problems. Thus far, the City does not have any better solutions.

Commissioner Craft asked if the proposed definition for chronic nuisance, which identifies the number and types of nuisance activities that must occur within a defined time period, would mirror the City of Seattle's approach. Ms. Markle said that, after receiving feedback from other jurisdictions, staff decided to lengthen the amount time between incidents because staff felt a 60-day period was too quick.

Chair Scully cautioned that the breadth of the proposed ordinance would involve more homes than just those where criminal activities occur. He noted that there are numerous properties within a 10-block radius of his home that would probably meet the definition of "chronic nuisance;" not because of criminal activity but because an elderly person or someone with a disability is not taking care of the property. While he is not suggesting the ordinance be narrowed down to just criminal activity in a rental

house, he hoped the tool box would not start and end with eviction. Oftentimes, a much more proactive and supportive approach is needed to get problem properties cleaned up.

Ms. Markle advised that the situations referenced by Chair Scully are handled through code enforcement, and the City is sensitive to people with mental illnesses and other disabilities. They typically do abatement for people who cannot physically or mentally achieve compliance. She said perhaps language could be added to make people feel comfortable that the City would not abuse this resource. The intent is to use it only to address repeat mainly criminal behavior situations. Civil violations were added to allow the process to move a little quicker.

Chair Scully suggested that if the focus of the ordinance is to address criminal situations, they should require a criminal law violation that is proven by preponderance in civil court. He expressed concern about adopting a broad and sweeping ordinance to address a narrow problem. Ms. Markle responded that the Council has struggled with the concern about making the ordinance too broad.

Chair Scully recalled that at a previous discussion, the Commission talked about relying on calls for fire and police service as one of the criteria for identifying a property as a chronic nuisance. He said he would be against including this criterion because it could discourage people from reporting incidents.

#### **DIRECTOR'S REPORT**

Ms. Markle reported that staff is working to develop alternatives for the second design workshop and the draft Environmental Impact Statement (EIS) scoping meeting for the light rail station. In addition, scoping for the Point Wells EIS may begin as early as January 2014. Once notified by Snohomish County of the timeline for the EIS, the City will host an event to inform the citizens of Shoreline of the process. A scoping meeting will be held in Shoreline, and the City will prepare and submit comments. The Transportation Corridor Study will start in 2014, as well.

#### **UNFINISHED BUSINESS**

There was no unfinished business.

#### **NEW BUSINESS**

There was no new business.

#### **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

There were no Commissioner reports or announcements.

#### **AGENDA FOR NEXT MEETING**

Mr. Szafran announced that the January 2, 2014 meeting would be cancelled. The January 16<sup>th</sup> agenda would include a study session on the draft Comprehensive Plan Amendment Docket.



## **ADJOURNMENT**

The meeting was adjourned at 7:43 p.m.

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Donna Moss  
Chair, Planning Commission

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Lisa Basher  
Clerk, Planning Commission