
Council Meeting Date: December 8, 2014

Agenda Item: 7(c)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 698 - Chronic Nuisance Properties Amendment
DEPARTMENT:	City Attorney's Office
PRESENTED BY:	Margaret King, City Attorney
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

On March 3, 2014, the City Council adopted Ordinance No. 675 which enacted a new chapter of the Shoreline Municipal Code (SMC), Chapter 9.30 - Chronic Nuisance Properties. Subsequent to this adoption, an error was discovered regarding inconsistent references to appeal time periods. Proposed Ordinance No. 698 corrects this error so as to ensure a single appeal period. This ordinance was presented to Council for discussion and questions on November 24 and Council had no concerns regarding this ordinance.

RESOURCE/FINANCIAL IMPACT:

No resource or financial impact is anticipated.

RECOMMENDATION

Staff recommends that Council move to adopt Ordinance No. 698, amending Shoreline Municipal Code, Chapter 9.30 - Chronic Nuisance Properties.

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

BACKGROUND

On March 3, 2014, the City Council adopted Ordinance No. 675 which enacted a new chapter of the Shoreline Municipal Code (SMC), Chapter 9.30 - Chronic Nuisance Properties. With this enactment, the City provided adequate tools to hold property owners and their tenants responsible when illegal activities and other code violations repeatedly occur on the property. These activities and violations, termed “chronic nuisances,” present serious health, safety, and welfare concerns by interfering with the quality of life, comfort, and calm of the Shoreline community, specifically residential neighborhoods.

DISCUSSION

Subsequent to the adoption of Ordinance No. 675, an error was discovered that resulted in different calculations of time for appeal when a determination of chronic nuisance is being brought before the City Hearing Examiner on appeal. SMC 9.30.050(A)(7) states that an appeal is due within 14 calendar days of the date of *issuance* of the notice and SMC 9.30.060 states that an appeal is due within 14 calendar days from the date of *service* of the notice. This inconsistency must be corrected so as to ensure a timely filing of an appeal of the City’s determination of a chronic nuisance property to the City Hearing Examiner. Without this correction, parties subject to the ordinance would be unsure of the exact deadline for filing any appeal with the City Hearing Examiner. Because the term *service* is used throughout SMC 9.30 to establish deadlines, SMC 9.30.050(A)(7) should be amended to base the appeal date on *service* and not *issuance* of the notice.

Proposed Ordinance No. 698 corrects this error so as to ensure a single appeal period. This ordinance was presented to Council for discussion and questions on November 24 and Council had no concerns regarding this ordinance. The staff report for the November 24 Council discussion can be viewed at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2014/staffreport112414-9c.pdf>.

COUNCIL GOAL(S) ADDRESSED

Council Goal 5 calls for the promotion and enhancement of the City’s safe community and neighborhood programs and initiatives. Amending the chronic nuisance ordinance addresses Goal 5 by ensuring its ultimate goal - alleviating citizen fears caused by the presence of repetitive illegal activity promulgated by residents or proprietors of a particular property – while still ensuring due process for those subject to the ordinance’s enforcement.

RESOURCE/FINANCIAL IMPACT

No resource or financial impact is anticipated.

RECOMMENDATION

Staff recommends that Council move to adopt Ordinance No. 698, amending Shoreline Municipal Code, Chapter 9.30 - Chronic Nuisance Properties.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 698

ORDINANCE NO. 698

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING CHAPTER 9.30, CHRONIC NUISANCE PROPERTIES OF SHORELINE MUNICIPAL CODE TITLE 9, PUBLIC PEACE, WELFARE, AND MORALS TO CORRECT A CLERICAL ERROR.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington which has broad statutory authority to define, prevent, abate, and impose fines upon persons creating or allowing a nuisance; and

WHEREAS, on March 3, 2014, the City Council adopted Ordinance No. 675, enacting a new chapter of the Shoreline Municipal Code (SMC) Chapter 9.30 *Chronic Nuisance Properties*; and

WHEREAS, subsequent to the adoption, a clerical error was discovered that establishes two appeal periods when a determination of chronic nuisance is being brought before the City Hearing Examiner; and

WHEREAS, SMC 9.30.050(A)(7) states that an appeal is due within 14 calendar days of the date of issuance of the notice and SMC 9.30.060 states that an appeal is due within 14 calendar days from the date of service of the notice; and

WHEREAS, a correction needs to be made so as to ensure a timely filing of an appeal of the City's determination of a chronic nuisance property to the City Hearing Examiner;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 9.30.050 of the Shoreline Municipal Code, is amended as set forth below:

SMC 9.30.050 Notice of determination of chronic nuisance property.

A. When a property is determined to be 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:

...

7. A warning that the property owner of a chronic nuisance property permitted by a person in charge other than the owner, or the owner's agent, must promptly take all steps requested in the notice of determination of chronic nuisance property to assist in abatement of the nuisance property, including pursuing eviction of the person in charge, available to the owner pursuant to any lease and

consistent with state law. 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 14 calendar days of the date of ~~issuance~~ service of the notice;

...

Section 2. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or circumstance.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON DECEMBER 8, 2014.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: , 2014
Effective Date: , 2014