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ORDINANCE NO. 675

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ADOPTING SANCTIONS FOR MAINTAINING PROPERTY AS A CHRONIC NUISANCE; AND ADDING A NEW CHAPTER, 9.30 CHRONIC NUISANCE PROPERTIES, TO THE SHORELINE MUNICIPAL CODE.

WHEREAS, the City of Shoreline, as a noncharter code city, has broad authority to define, prevent, abate, and impose fines upon persons creating or allowing a nuisance under Title 35A RCW; and

WHEREAS, the City Council's 2013-2015 Goals include Goal 5 which seeks to "promote and enhance the City's safe community and neighborhood programs and initiatives;" and

WHEREAS, some persons who own or control property in the City have allowed or may allow their properties to be used on multiple occasions for illegal purposes constituting a chronic nuisance; and

WHEREAS, the City Council finds that chronic nuisance properties present health, safety, and welfare concerns that negatively impact the quality of life in the neighborhoods where they are located; and

WHEREAS, the City Council has determined that neighboring property owners and residents should be able to own, use, or possess property without the negative impacts caused by chronic nuisance properties; and

WHEREAS, the City Council finds that chronic nuisance properties cause a financial burden upon the City by the numerous calls for service to the properties because of the illegal activities that repeatedly occur or exist on such properties; and

WHEREAS, in response to repeated occurrences of nuisance activity on properties within the City, the City Council has expressed concern and a desire to do more to protect city residents; and

WHEREAS, the City Council finds that current nuisance provisions found in Shoreline's Municipal Code do not provide adequate tools for abating chronic nuisance properties; and

WHEREAS, at its July 1, 2013 regular meeting, the City Council directed City staff to develop a chronic nuisance property ordinance; and

WHEREAS, the City's Department of Planning and Community Development and the City's Police Department collaborated in the development of regulations to address chronic nuisance property in the City; and

WHEREAS, at its January 27, 2014 regular meeting, the City Council discussed the proposed chronic nuisance ordinance and provided City staff with additional direction; and

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WHEREAS, the SEPA Responsible Official for the City of Shoreline has determined that the proposed amendment to Title 9 is categorically exempt from SEPA review under WAC 197-11-800(19); and

WHEREAS, the City Council has determined the adoption of a chronic nuisance properties ordinance promotes the public health, safety, and welfare of the City; now therefore

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

Section 1. New Chapter. A new Chapter 9.30 *Chronic Nuisance Properties* is added to Title 9 of the Shoreline Municipal Code as set forth in Exhibit A to this Ordinance.

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 MARCH 3, 2014.

Shari Winstead
Mayor Shari Winstead

ATTEST:

Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

~~Ian Sievers~~ JULIE AINSWORTH-Taylor
Asst. City Attorney

Date of Publication: March 6, 2014
Effective Date: March 11, 2014

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Shoreline Municipal Code

Chapter 9.30
CHRONIC NUISANCE PROPERTY

Sections:

9.30.010	Purpose.
9.30.020	Definitions.
9.30.030	Chronic Nuisance Activities - Violation.
9.30.040	Determination of Chronic Nuisance Property.
9.30.050	Appeal of Chronic Nuisance Property Notice.
9.30.060	Voluntary Compliance Plan.
9.30.070	Enforcement.
9.30.080	Additional Enforcement Provisions.

9.30.010 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.

9.30.020 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"** is a property on which:

1. For single-family residential property or single-unit commercial property, when three or more nuisance activities described in SMC 9.30.020(E) have occurred on different days during any one hundred eighty (180) day period or five or more nuisance activities have occurred on the property on different days during any twelve (12) month period; or

2. For any type of property, a search warrant has been served twice within a twenty-four (24) month period; or

3. For multi-family residential or multi-tenant commercial property, within a one hundred eighty (180) day period, the following number of nuisance activities described in SMC 9.30.020(E) have occurred on different days:

a. Property with 2 or 3 units: 6 nuisance activities.
b. Property with 4 to 19 units: 12 nuisance activities.
c. Property with 20 to 39 units: 18 nuisance activities.

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d. Property with 40 to 100 units: 24 nuisance activities.
e. Property with over 100 units: 30 nuisance activities.

A single unit within a multi-family residential and multi tenant commercial property that meets the definition of SMC 9.30.020(B)(1) or SMC 9.30.020(B)(2) is a chronic nuisance property;

And

4. Designated by the Chief of Police and the Director after a review of official documentation such as police incident reports, notices and orders to correct, and case files to determine if there are sufficient facts and circumstances to establish probable cause to find the occurrence of nuisance activities.

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. 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.
f. Violation of stay out of areas of prostitution (SOAP) orders as defined in section 9.10.560 SMC.
g. Gambling-related offenses as defined in chapters 9.46 and 9.47 RCW.
h. Gang-related activity as defined in section 9.94A.030 RCW.
i. Firearms and dangerous weapons offenses as defined in chapter 9.41 RCW.
j. Public disturbance noises as defined in chapter 9.05 SMC.
k. Stolen property and trafficking of stolen property offenses as defined in chapters 9A.56 and 9A.82 RCW.
l. Execution of criminal arrest or criminal arrests from property.
m. Human trafficking as defined in section 9A.40.100 RCW and 9A.88.060 RCW.
n. Any attempt, solicitation or conspiracy to commit any of the above activities, behaviors or conduct, as defined in section 9.10.110 SMC.

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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.

9.30.030 Chronic Nuisance Activities - Violation.

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

9.30.040 Determination of Chronic Nuisance Property.

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 there are sufficient facts and circumstances to establish probable cause to find the occurrence of nuisance activities to support a designation of the property as a chronic nuisance property..

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:

   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

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nuisances which may include submission of a proposed compliance plan for City approval;

6. A warning that the persons 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 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 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.

B. 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.

9.30.060 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.

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9.30.070 Voluntary Compliance Plan.

As provided in SMC 9.30.050(A)(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.

9.30.080 Enforcement.

A. Any person in charge of property that has been determined to be a chronic nuisance property is in violation of this chapter and any property owner of record who fails to comply with 9.30.050(A)(7) shall be 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 9.30.070.
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).

9.30.090 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) constituting chronic nuisance activities is not a defense to an action under this chapter.

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D. The Police Chief and the Director shall have the authority to promulgate procedures for administering this chapter.