



ORDINANCE NO. 28530

1 AN ORDINANCE relating to chronic nuisance properties; repealing and reenacting
2 Chapter 8.30A of the Tacoma Municipal Code, entitled “Chronic Public
3 Nuisance,” to increase the effectiveness and viability of the code in relation
4 to chronic nuisance properties.

4 WHEREAS the Chronic Public Nuisance Code (“Code”), codified as
5 Chapter 8.30A of the Tacoma Municipal Code (TMC”), was established in 2003
6 with the intent to protect the health, safety, and welfare of the public, and
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8 WHEREAS the Code was designed to address both residential and
9 commercial properties that consume a disproportionate amount of City resources
10 due to criminal conduct and impact on neighboring properties; however, successful
11 application of the Code has proven to be cumbersome, lengthy, or ineffective and,
12 as a result, has been used minimally over the years, and
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14 WHEREAS staff is recommending a comprehensive revision of the Code to
15 establish a stronger enforcement process and shorter timelines, and
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16 WHEREAS the proposed Code amendments include the following:
17 (1) expansion of when a property will meet the definition of a “chronic nuisance
18 property”; (2) additional violations in the definition of “nuisance activity”; (3) a
19 required Correction Agreement; (4) additional enforcement options for non-
20 compliance; and (5) a streamlined administrative process, and
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22 WHEREAS, on June 14, 2018, the proposed Code amendments were
23 presented to the Community Vitality and Safety Committee, and
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25 WHEREAS the proposed Code amendments were presented to the City
26 Council at its Study Session on August 14, 2018; Now, Therefore,



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BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 8.30A of the Tacoma Municipal Code is hereby repealed and reenacted as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

**Chapter 8.30A
CHRONIC PUBLIC NUISANCE**

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~~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.~~

~~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.~~



~~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:~~

~~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.~~

~~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.~~



1 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.

2 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
3 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.

4 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.

5 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
6 interest therein.

7 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
8 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
9 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.

10 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
11 her control.

12 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
13 or commercial property.

14 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.

15 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
16 place by one or more persons.

17 ~~8.30A.050 Violation.~~

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

19 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.

20 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.

21 ~~8.30A.060 Process.~~

22 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.

23 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:

24 1. The street address or a legal description sufficient for identification of the property;

25 2. A concise description of the nuisance activities that exist or that have occurred on the property;

26 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.

~~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.



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~~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.~~



Chapter 8.30A
CHRONIC PUBLIC NUISANCE

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Sections:

- 8.30A.010 Scope and purpose.
- 8.30A.020 Definitions.
- 8.30A.030 Declaration of chronic nuisance property and procedures.
- 8.30A.040 Correction agreement.
- 8.30A.050 Enforcement.
- 8.30A.060 Additional remedies.
- 8.30A.070 Appeals to the Hearing Examiner.
- 8.30A.080 Successive owners liable.
- 8.30A.090 Joint and several liability.
- 8.30A.100 Severability.

8.30A.010 Scope and purpose.

Chronic nuisance properties present grave health, safety, and welfare concerns and have a tremendous negative impact upon the quality of life, safety, and health of their neighborhoods and on those persons that live, work, visit, engage in commerce, or otherwise seek to enjoy property rights therein. Such properties are a financial burden to the City and the necessary services rendered to and at such properties often result in a disproportionate consumption of City resources. Therefore, any chronic nuisance property located in the City is in violation of this chapter and subject to its remedies. This chapter is enacted to remedy nuisance activities that repeatedly occur or exist at chronic nuisance properties by providing a process for lawfully reducing or eliminating said activities. While the City seeks to promote cooperative and voluntary compliance, the remedies provided herein are not exclusive and the City may pursue any available option in law or equity to remedy a chronic nuisance property.

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

- A. Establishing standards and recommendations for reducing criminal activity and improving building conditions;
- B. Working in cooperation with property owners to accomplish these goals; and
- C. Establishing a framework of judicial and administrative processes against which the City can seek to alleviate chronic nuisance conditions.

8.30A.020 Definitions.

A. “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.

B. “Chronic nuisance property” means a property:

- 1. on which three or more nuisance activities as defined herein exist or have occurred during any 60-day period; or
- 2. on which four or more nuisance activities as defined herein exist or have occurred during any six-month period; or
- 3. on which six or more nuisance activities as defined herein exist or have occurred during any 12-month period; or
- 4. that, upon request for execution of a search warrant, has been the subject of a determination by a court two or more times within a 12-month period that probable cause exists that illegal possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Revised Code of Washington (“RCW”) 69.50, has occurred on the property; or



1 5. that the City can demonstrate by a preponderance of the evidence is the cause of nuisance activities that are
2 occurring on other property adjacent to or in proximity to the property itself, where such nuisance activities
3 occurring on such other property meet the definition of 1, 2, 3, or 4 above.

4 C. "Correction agreement" means a contract between the City and the owner and, if different than the owner,
5 the person in control of the chronic nuisance property, in which such person(s) agrees to promptly take all
6 reasonable actions, which shall be set forth in the agreement, to abate the nuisance activities within a
7 specified time and according to specified conditions.

8 D. "Director" means any City of Tacoma Department Director, or designee.

9 E. "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part,
10 and, in addition, means any person designated as a representative of the landlord.

11 F. "Nuisance activity" includes a violation for any of the following:

12 1. A "most serious offense," as defined in RCW 9.94A;

13 2. "Alcoholic beverage control violations," as defined in RCW 66.44;

14 3. "Drive-by shooting," as defined in RCW 9A.36.045;

15 4. "Drug-related activity," including unlawful manufacture, delivery, sale, storage, possession, or giving
16 away of any controlled substance, as defined in RCW 69.50; illegal drugs, as defined in RCW 69.41;
17 precursor drugs, as defined in RCW 69.43; or imitation controlled substances, as defined in RCW 69.52;

18 5 "Gang-related activity," as defined in RCW 59.18.030;

19 6. "Reckless endangerment," as defined in RCW 9A.36.050;

20 7. Animal Control, Tacoma Municipal Code ("TMC") Title 17;

21 8. Assault in the Fourth Degree, TMC 8.76;

22 9. Curfew Hours for Minors, TMC 8.109;

23 10. Disorderly Conduct, TMC 8.12;

24 11. Domestic Violence, TMC 8.105;

25 12. Drug Paraphernalia, TMC 8.29;

26 13. Drug-related Loitering, TMC 8.72;

14. Fire Prevention Code, TMC 3.02;

15. Firearms, TMC 8.67;

16. Fireworks, TMC 3.12;

17. Gambling, TMC 8.100;

18. Graffiti, TMC 8.120;

19. Harassment, TMC 8.80;

20. Indecent Acts, TMC 8.32;

21. Minimum Building and Structures Code, TMC 2.01;

22. Narcotics, TMC 8.28;

23. Noise Enforcement, TMC 8.122;

24. Obstructing Pedestrians or Traffic, TMC 8.13;

25. Prostitution, TMC 8.46;

26. Public Nuisances, TMC 8.30;

27. Regulation of Purchase/Sale of Ephedrine, TMC 8.140;

28. Stay Out of Areas of Prostitution ("SOAP") Orders, TMC 8.170;

29. Stay Out of Drug Areas ("SODA") Orders, TMC 8.160;

30. Solid Waste, Recycling and Hazardous Waste, TMC 12.09;

31. Tax and License Code, TMC Title 6;

32. Unlawful Assembly, TMC 8.60;



33. Urinating in Public, TMC 8.33;

34. Weapons, TMC 8.66;

35. Any similar violation of the RCW or the United States Code;

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

G. “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 whose ownership interest is otherwise established.

H. “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.

I. “Person in control” means any person in actual or constructive possession of a property, including, but not limited to, an owner, occupant, agent, business owner, business manager, or property manager of a property under the person’s control.

J. “Property” means any building, lot, tax parcel, dwelling, rental unit, real estate, or land, or portion thereof, including property used as residential or commercial property.

K. “Service by mail” shall be deemed complete upon the third day following the day upon which the notice of violation is placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday, or legal holiday, following the third day.

L. “Violation” means a criminal conviction, civil judgment, issuance of a civil penalty, issuance of a notice of violation, or any act or conduct which the City can establish by a preponderance of the evidence exists or has occurred regardless of whether such act resulted in a criminal charge or civil penalty. Copies of police incident reports, reports of other City departments documenting nuisance activities, evidence of a property’s general reputation, and the reputation of persons residing in or frequenting the property shall be admissible in proceedings under this chapter. A civil infraction or criminal charge which is deferred or subject to pretrial diversion, or a verdict of not guilty on a criminal charge, may be counted as a violation if the violation is proved by a preponderance of the evidence; provided, however, that a finding of not committed on a civil infraction precludes use of that act as a basis for a violation under this chapter.

8.30A.030 Declaration of chronic nuisance property and procedures.

A. If the Director determines a property is a chronic nuisance property, the City shall send a notice of violation and proposed correction agreement to the owner of the property and to the person in control of the property, if different. The notice of violation and proposed correction agreement shall be sent by first-class mail or personally served, and a copy shall be sent by certified mail. The City may also elect to post an additional copy of the notice of violation and proposed correction agreement in a conspicuous place on or at the property.

B. The notice of violation shall include the following:

1. The street address or a legal description sufficient for identification of the property;

2. A statement that the property has been determined to be a chronic nuisance property and a concise description of the chronic nuisance activities that exist or that have occurred on the property;

3. A copy of the proposed correction agreement;

4. A requirement that the owner of the property or person in control of the property, if different, shall respond to the Director within ten calendar days of the date of service of the notice of violation and meet at the designated time, unless otherwise agreed to by the City, to discuss the nuisance activities and the proposed correction agreement in order to abate the chronic nuisance; and

5. A notice that if the owner of the property or person in control of the property, if different, does not respond to the Director as required by this chapter or does not voluntarily correct the chronic nuisance, the City may initiate legal action to abate the chronic nuisance property.

8.30A.040 Correction agreement.

A. When an owner of a chronic nuisance property or person in control thereof, if different, responds to a notice of violation as required by this chapter and agrees to abate the chronic nuisance activity, a correction



1 agreement shall be entered into wherein the owner or person in control, if different, agrees to promptly take
2 all reasonable actions, as set forth in the correction agreement, to abate the nuisance activities within specific
3 time frames and according to specified conditions. The agreement shall be signed by the owner and the
4 person in control, if different.

5 B. The correction agreement shall include the following:

6 1. The name and address of the owner and/or person in control of the property;

7 2. The street address or a description sufficient for identification of the property, building, structure, or land
8 upon or within which the nuisance is occurring;

9 3. A concise description of the chronic nuisance activities existing or which have occurred;

10 4. The necessary corrective action to be taken, and a date or time by which correction must be completed;

11 5. An agreement by the person in charge that the City may inspect the property, as may be necessary, to
12 determine compliance with the correction agreement;

13 6. An agreement by the owner and person in control of the property, if different, to promptly take all acts and
14 pursue all remedies requested by the Director.

15 7. An agreement for a compliance review period to assure the property remains in compliance for a certain
16 period of time after the actions in the correction agreement have been completed.

17 **8.30A.050 Enforcement.**

18 A. Upon the failure of an owner or person in control, if different, to correct the chronic nuisance violations in
19 accordance with the notice of violation or the correction agreement, the City may initiate an action in a court
20 of competent jurisdiction to abate a chronic nuisance property, or may seek alternative remedies under local
21 and state law, including, but not limited to, a receivership pursuant to RCW 7.60, or condemnation of
22 blighted property proceedings as authorized under RCW 35.80A.

23 B. In an action by the City before a court of competent jurisdiction to abate the chronic nuisance property in
24 accordance with this chapter, the City shall have the initial burden of proof to show by a preponderance of the
25 evidence that the property is a chronic nuisance property and is in violation, as defined herein.

26 C. Once the court determines the property to be a chronic nuisance property under this chapter, the court may
27 order any relief deemed appropriate to abate the chronic nuisance activity consistent with RCW 7.48,
28 including issuing a warrant of abatement and assessing the costs of abatement against the owner or the
29 property, consistent with local and state law.

30 D. Where a Director has sent a notice of violation and correction agreement to the owner or person in control
31 of a chronic nuisance property, if different, the Director, or designee, shall review the status of that property
32 within 30 days of sending such notice of violation and correction agreement to determine whether additional
33 enforcement actions should be taken, or if the matter as to that property has been successfully resolved.

34 **8.30A.060 Additional remedies.**

35 A. At any time after the City initiates a chronic nuisance action, the City may record a Certificate of
36 Complaint with the Pierce County Auditor, to be attached to the title of the property. A copy of the Certificate
37 of Complaint shall be sent to the property owner.

38 B. If an owner or person in the control of the property, if different, fails to comply with this section, the
39 business license may be suspended until compliance with this chapter is achieved. Revocation or suspension
40 of a business license may be appealed as provided in TMC 6B.10.140.

41 C. Any violation of this chapter is a gross misdemeanor and may be punished by a fine up to \$5,000 and up to
42 364 days in jail, or both.

43 D. The remedies of this chapter are not exclusive and do not affect any other enforcement actions taken by the
44 City under another section of the TMC or state law, or enforcement actions taken by a different jurisdiction.

45 **8.30A.070 Appeals to the Hearing Examiner.**

46 A. A person to whom a notice of violation has been issued may request a hearing before the Hearing
47 Examiner to appeal the Director's determination of the property as a chronic nuisance property within
48 ten calendar days of the issuance of the notice of violation. The request for hearing shall be in writing and



shall be filed with the Office of the Hearing Examiner, with a copy served on the Director who issued the original notice of violation.

1 B. The appeal hearing shall be conducted in accordance with TMC 1.23 and the Hearing Examiner's Rules of
2 Procedure for Hearings. The City shall have the burden of proof to establish by a preponderance of the
3 evidence that the property is a chronic nuisance property and that the proposed corrective action is
4 reasonable.

5 C. The Hearing Examiner shall determine whether the City has established by a preponderance of the
6 evidence that the property is a chronic nuisance property and that the proposed corrective action is
7 reasonable. The Hearing Examiner shall affirm, modify, or vacate the Director's decision regarding the
8 alleged violation and the proposed correction agreement.

9 **8.30A.080 Successive owners liable.**

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

13 **8.30A.090 Joint and several liability.**

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

19 **8.30A.100 Severability.**

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

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