

**CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 224**

**AN ORDINANCE RELATING TO THE ABATEMENT OF CHRONIC NUISANCE
PROPERTIES; ADDING A NEW CHAPTER, CITY OF LIBERTY LAKE CITY CODE
TITLE 6, CHAPTER 7.**

WHEREAS, the City of Liberty Lake ("City") has determined that a small percentage of persons who own or control real property in this City have allowed their property to be used for illegal purposes or have otherwise failed to properly maintain their property, and such property has become a chronic nuisance property which has created a significant impact upon the living conditions in the City's neighborhoods and has raised justifiable concerns about public safety; and

WHEREAS, the City has determined that the chronic nuisance properties interfere with the comfort, health, solitude and quality of life of the individuals residing in the neighborhood, and lower the value of surrounding properties; and

WHEREAS, the City has determined that existing laws have not sufficiently encouraged such persons to take reasonable steps to abate the nuisances that their property is creating; and

WHEREAS, the City has determined that enhanced penalties will give such property owners additional incentives to ameliorate the problems that their property is creating, and that some property owners will never act responsibly unless their property is subject to such abatement procedures; and

WHEREAS, chronic nuisance properties create a negative financial impact upon City services by numerous calls for service from various City departments.

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, do ordain as follows:

That there be added a new chapter, Liberty Lake Municipal Code Title 6, Chapter 7, to read as follows:

6-7-1: Purpose.

Chronic Nuisance properties present grave health, safety and welfare concerns, which the property owners or persons in charge of such properties have failed to take 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 an exclusive remedy available under any state or local laws and may be used in conjunction with such other laws.

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 property, and this chapter is a means to ameliorate those conditions and hold responsible the owners or persons in charge of such property.

6-7-2: 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. “**Control**” means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property;
- C. “**Chronic nuisance property**” means a property on which three (3) or more nuisance activities occur or exist during any sixty (60) day period;
- D. “**Drug-related activity**” means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined in chapter 69.50 RCW, legend drug as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW;
- E. “**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;
- F. “**Nuisance activity**” means and includes:
 - 1. A nuisance as defined by state law or local ordinance occurring around or near the property; or
 - 2. Any of the following activities, behaviors or criminal conduct:
 - a. Assault, LLMC 6-1-18;
 - b. Reckless endangerment, LLMC 6-1-18;
 - c. Disorderly conduct, LLMC 6-1-28;
 - d. Any firearms violations set forth in LLMC 6-1-33;
 - e. Stalking, LLMC 6-1-37;
 - f. Harassment, LLMC 6-1-37;
 - g. Prostitution, LLMC 6-1-48;
 - h. Patronizing a prostitute, LLMC 6-1-48;
 - i. Indecent exposure, LLMC 6-1-48;
 - j. Failure to disperse, LLMC 6-1-49;
 - k. Disorderly house, LLMC 10-3(I);
 - l. Lewd conduct;
 - m. Loitering for the purpose of engaging in drug-related activity;
 - n. Noise;

- o. Drug-related activity;
 - p. Gang-related activity (as defined in RCW 59.18.030);
 - q. Any attempt to commit and/or conspiracy to commit any of the above activities, behaviors or conduct;
- G. **“Owner”** means any person having any interest in the real estate in question as indicated in the records of the office of the Spokane County Auditor, or who establishes under this chapter, their ownership interest therein;
- H. **“Person”** means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them;
- I. **“Person associated with a property”** means any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or a person present on property, including without limitation, any officer, director, customer, agent, employee, or any independent contractor of a property, or a person in charge of or owner of a property;
- J. **“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 control;
- K. **“Premises and property”** may be used by this chapter interchangeably and means any building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as residential or commercial property;
- L. **“Rental Unit”** means any structure or that part of a structure, including but not limited to single-family home, room or apartment, which is rented to another and used as a home, residence, or sleeping place by one or more persons.

6-7-3: Violation.

- A. Any property within the City which is a chronic nuisance property is in violation of this chapter and subject to its remedies; and
- B. Any person in charge who permits property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies.

6-7-4: Procedure.

- A. When the Chief of Police, or his designee, receives police documentation confirming the occurrence of three (3) or more nuisance activities within a sixty (60) day period on the property, the Chief of Police, or his designee, may review such reports to determine whether they describe the nuisance activities enumerated in Liberty Lake Municipal Code 6-7-2. Upon such a finding, the Chief of Police, or his designee, shall notify a property owner at the address shown on the county auditor records, and

shall notify the person in charge of the property in writing that the property is in danger of being declared a chronic nuisance property.

- B. The notice shall contain:
 - 1. The street address or a legal description sufficient for identification of the property;
 - 2. A concise description of the nuisance activities that exist, or that have occurred on the property;
 - 3. A demand that the owner or person in charge respond to the Chief of Police, or his designee, within ten (10) days of service of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;
 - 4. Offer the person in charge an opportunity to abate the nuisance activities giving rise to the violation; and
 - 5. A statement describing that if legal action is sought, the property could be subject to closure, civil penalties and/or costs assessed up to one hundred dollars (\$100.00) per day after the notice of the chronic nuisance property is received.
- C. Such notice shall be either (1) personally served, or (2) delivered by first class mail to the person in charge of the property with a copy mailed to the owner at the address indicated by the Spokane County Auditor, if different than the person in charge of the property.
- D. If the person in charge fails to respond to the notice within the time prescribed, the Chief of Police, or his designee shall post such notice at the property and issue the person in charge a class 1 civil infraction. If the person in charge fails to respond to the issue infraction the matter shall be referred to the City Attorney for further action.
- E. If the person in charge responds as required by the notice and agrees to abate the nuisance activity, the Chief of Police, or his designee, and the person in charge and/or property owner, may work out an agreed-upon course of action which would abate the nuisance activity. If an agreed course of action does not result in the abatement of the nuisance activities or if no agreement concerning abatement is reached, the matter shall be forwarded to the City Attorney for enforcement action.
- F. It is a defense to an action for chronic nuisance property that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic nuisance property.

6-7-5: Commencement of Action – Enforcement.

- A. Once the matter is referred to the City Attorney, the City Attorney shall immediately review and make a determination to initiate legal action authorized under this chapter or state statute, or may seek alternative forms of abatement of the nuisance activity. The City Attorney may initiate legal action on the chronic nuisance property and seek

civil penalties and costs in superior court for the abatement of the nuisance.

- 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 City may submit official police reports and other affidavits outlining the information that led to arrest(s), if applicable, and other chronic nuisance activity occurring or existing at the property. The failure to prosecute an individual, or the fact no one has been convicted of a crime is not a defense to a chronic nuisance action.
- C. Once a superior court determines the property to be a chronic nuisance under this chapter the court may impose a civil penalty against any or all of the persons in charge of the property and/or the owner of the property, and may order any other relief deemed appropriate. A civil penalty may be assessed for up to one hundred dollars (\$100.00) per day for each day the nuisance activity continues to occur following the date of the original notice by the Chief of Police, or his designee, as described in Liberty Lake Municipal Code 6-7-4. In assessing the civil penalty, the court may consider the following factors, citing to those found applicable:
 - 1. The actions taken by the person in charge and/or owner to mitigate or correct the nuisance activity;
 - 2. The financial condition of the persons in charge;
 - 3. The repeated or continuous nature of the nuisance activity;
 - 4. The statements of the neighbors or those affected by the nuisance activity; and
 - 5. Any other factor deemed relevant by the court.
- D. The superior court which determined the property to be a chronic nuisance property shall also assess costs against the person in charge and/or owner in the amount it costs the City to abate, or attempt to abate, the nuisance activity.
- E. If the superior court determines the property to be a chronic nuisance property, the superior court shall order the property closed and secured against all unauthorized access, use and occupancy for a period up to one (1) year, and may impose a civil penalty and costs.
- F. Once a determination has been made by the superior court that the chronic nuisance property shall be subject to closure, the court may authorize the City to physically secure the premises and initiate such closure. Costs for such closure shall be submitted to the court for review. Any civil penalty and/or costs awarded to the City may be filed with the City Treasurer who shall cause the same to be filed as a lien on the property with the county treasurer. The City shall file a formal lis pendens notice when an action for abatement is filed in the superior court.
- G. The superior court shall retain jurisdiction during any period of closure or abatement of the property.

H. Spokane District Court is to have jurisdiction of all civil infractions issued pursuant to this chapter.

6-7-6: Summary Closure.

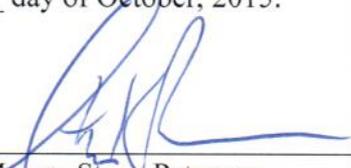
Nothing in this chapter prohibits the City from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public welfare and safety. The City may take summary action to close the property without complying with the notification provisions of Liberty Lake Municipal Code 6-7-4, but shall provide such notice as is reasonable under the circumstances.

6-7-7: Severability.

If any section, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances.

Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

Passed by the City Council this 6th day of October, 2015.



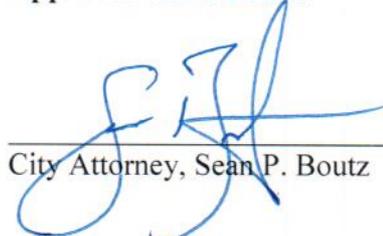
Mayor, Steve Peterson

ATTEST:



City Clerk, Ann Swenson

Approved as To Form:



City Attorney, Sean P. Boutz

Date of Publication: 10-15-15
Effective Date: 10-20-15

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CERTIFICATION

I, Ann Swenson, the undersigned City Clerk of the City of Liberty Lake, of Spokane County, Washington, HEREBY CERTIFY that the foregoing Ordinance is a full, true, and correct copy of Ordinance No. 224 duly adopted at a regular meeting of the City Council of said City, duly and regularly held at a the regular meeting place thereof on October 6, 2015 of which meeting all members of said City Council had due notice and at which a majority thereof were present; and that at said meeting said Ordinance was adopted by the following vote: unanimous, 6-0.

AYES, and in favor thereof: Mayor Pro Tem Kaminkas, Council Members Langford, Dunne, Moore, Brickner and Kopelson.

NAYS: None.

ABSENT: Council Member Severs

ABSTAINED: None.

CITY OF LIBERTY LAKE



CITY CLERK