

ORDINANCE NO. 16-1017

AN ORDINANCE of the City Council of the City of SeaTac, Washington adding a new chapter 7.50 to the SeaTac Municipal Code related to Chronic Nuisance Properties; amending section 5.05.180 of the SeaTac Municipal Code to include business license suspension or revocation for chronic nuisance properties.

WHEREAS, state law empowers code cities to define and abate nuisances and impose fines upon persons responsible for creating or allowing nuisances, RCW 35A.21.160, RCW 35.22.280(30); and

WHEREAS, the SeaTac City Council finds that people should be able to enjoy ownership, use and possession of property without the negative impacts caused by chronic nuisance properties; and

WHEREAS, some persons who own or control property in the City of SeaTac allow their properties to be used for illegal purposes, with the result that these properties have become chronic nuisance properties; and

WHEREAS, chronic nuisance properties are a financial burden to the City by the repeated calls for service to the properties; and

WHEREAS, the current provisions of the SeaTac Municipal Code (SMC) do not provide adequate tools for abating chronic nuisances; and

WHEREAS, chronic nuisance properties present serious health, safety and welfare concerns and interfere with the quality of life and comfort of other persons residing in the neighborhood; and

WHEREAS, the City finds that the provisions of this Ordinance are necessary for the public health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. A new Chapter 7.50 is added to the SeaTac Municipal Code to read as follows:

**Chapter 7.50
CHRONIC NUISANCE PROPERTIES**

Sections:

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7.50.010 Purpose.

People should be able to enjoy ownership, use and possession of property without negative interference from chronic nuisance properties. The intent of the City Council in enacting this chapter is to exercise specific powers granted by the State of Washington to declare what shall be a nuisance, abate the same, and to impose fines upon parties who create, continue, or suffer nuisances to exist. In addition, the City Council intends to exercise the specific power granted by the State of Washington to provide for the punishment of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits.

Chronic nuisance properties present significant health, safety and welfare concerns, where the persons responsible for such properties fail to take corrective action to abate the nuisance condition. Chronic nuisance properties can have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located. Chronic nuisance properties can be a financial burden to the City due to repeated calls for service necessitated by nuisance activities that repeatedly occur or exist on such properties. This chapter is enacted to provide a remedy for nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties and provide a practical process for abating such activities and for holding accountable the persons ultimately responsible for such properties. This remedy is not the exclusive remedy available under state or local laws and may be used in conjunction with such other laws.

7.50.020 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

- 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 chief of police determines is necessary in the interest of the general health, safety and welfare of the community.

- B. "Chief of Police" means the Chief of Police of the City of SeaTac or his or her designees.
- C. "City Attorney" means the City Attorney of the City of SeaTac or his or her designees.
- D. "Chronic nuisance property" means the following:
 - 1. A property on which three or more nuisance activities as described in this section exist or have occurred during any 60-day period; or
 - 2. A property on which seven or more nuisance activities as described in this section exist or have occurred during any 12-month period; or
 - 3. A property which, upon a 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 Chapter 69.50 RCW has occurred on the property.
- E. "Control" means the power or ability to direct or determine conditions, conduct, or events occurring on a property.
- F. "Nuisance activity" includes the following:
 - 1. A "most serious offense" as defined in Chapter 9.94A RCW;
 - 2. A "drug related activity" as defined in RCW 59.18.130;
 - 3. Promoting, advancing or profiting from prostitution as defined in Chapter 9A.88 RCW;
 - 4. Any of the following activities, violations, offenses, behaviors or criminal conduct:
 - a. Assault and other offenses involving physical harm, sexual offenses, sexually explicit material, harassment, sexual offenses relative to minors as defined in SMC 8.05.400;
 - b. Obstructing a police officer as defined in SMC 8.05.145;
 - c. Public disturbance, disorderly conduct, public nuisance, indecent exposure, public sexual contact, noise, controlled substances as defined in SMC 8.05.280 through 8.05.380;
 - d. Prostitution offenses, as defined in SMC 8.05.590 through 8.05.720;
 - e. Weapons offenses, as defined in SMC 8.05.560 through 8.05.580;
 - f. Trespass, prowling, theft, possession of stolen property, fraud as defined in SMC 8.05.490 through 8.05.510;
 - g. Malicious Mischief offenses, as defined by SMC 8.05.480
 - h. Any attempt, solicitation, or conspiracy to commit any of the above activities, behaviors or conduct as defined in SMC 8.05.260.

- G. "Owner" means any person who, alone or with others, has title or interest in any property.
- H. "Person" means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent, officer or employee of any of them.
- I. "Person in charge" of a property means the owner and, if different than the owner, any or all other persons in actual or constructive possession of a property, including, but not limited to, a lessee, tenant, occupant, agent, or manager of a property under his or her control.
- J. "Property" means any land, that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.
- K. "RCW" means the Revised Code of Washington, as in effect at the date of enactment of this chapter or as thereafter amended.
- L. "SMC" means SeaTac Municipal Code as in effect at the date of enactment of this chapter or as thereafter amended.

7.50.030 Violations.

- A. Any property within the City of SeaTac which is a chronic nuisance property is in violation of this chapter and subject to its remedies.
- B. It is the responsibility of all persons in charge of a property to ensure that the provisions of this code are met on any property they own, possess, or control. Any person in charge of a property declared to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies.

7.50.040 Declaration of chronic nuisance property and procedure.

- A. The Chief of Police may declare that a property is a chronic nuisance property, as defined in this chapter, when there are specific facts and circumstances documenting (1) the occurrence of three or more nuisance activities on a property within 60 days or (2) the occurrence of seven or more nuisance activities on a property within a 12-month period, or (3) a property which, upon a 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 Chapter 69.50 RCW has occurred on the property.
- B. Where a residential property is comprised of multiple dwelling units, the Chief of Police may confine the declaration of a chronic nuisance property to the dwelling unit(s) associated with the nuisance activity unless a broader declaration is needed to

achieve the intent of the chronic nuisance ordinance; provided, however, the person(s) in charge shall still have the same responsibilities and/or obligations under this chapter to address the chronic nuisance property and be subject to the same remedies.

- C. The Chief of Police shall provide written notice of this declaration to the person(s) in charge of the property. The notice shall be sent by first class mail or personally served, and a copy shall be sent by certified mail. If the person(s) in charge cannot after due diligence be personally served within King County and if an address for mailed service cannot after due diligence be ascertained, the notice of declaration shall be served by posting a copy of said notice conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.
- D. The notice shall include:
 - 1. The street address or a legal description sufficient for identification of the property;
 - 2. A declaration that the Chief of Police has determined the property has become a chronic nuisance property with a concise description of the nuisance activities that exist or that have occurred;
 - 3. A notice that the person(s) in charge of the property is subject to monetary penalties as set forth in this chapter;
 - 4. A demand the person(s) in charge of the property respond to the Chief of Police within seven (7) calendar days of service of the notice to discuss a course of action to correct the nuisance. Service of the notice shall be considered the date the person in charge is personally served or the date on which the notice is mailed certified mail;
 - 5. A notice that if the person(s) in charge does not respond to the Chief of Police as required in this section, or if the matter is not voluntarily corrected, the City may initiate an action to abate the property as a chronic nuisance property and/or take other action against the property or person(s) in charge as provided in this chapter or as otherwise permitted by law.
- E. If the person(s) in charge responds as required by the notice issued pursuant to this section and agrees to a course of action to abate the nuisance activities, a written correction agreement conforming to the requirements of SMC 7.50.060 shall be executed.
- F. Each person in charge shall be jointly and severally liable with all other persons in charge for any penalty, order or other remedy assessed and/or entered in accordance with this chapter. The Chief of Police's failure to send a notice of declaration to all persons in charge shall not be a defense to liability under this chapter for any

person(s) in charge who is provided with a notice of declaration as provided by this chapter.

7.50.050 Cooperation.

- A. Owner Cooperation. An owner who receives a copy of a notice pursuant to SMC 7.50.040 shall promptly take reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property. Such reasonable steps may include, but is not limited to, the owner pursuing eviction of the person in charge and/or tenants that are causing or permitting the chronic nuisance activities.
- B. Person in Charge/Manager Cooperation. A person in charge who receives a copy of a notice pursuant to SMC 7.50.040 shall promptly take reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property.

7.50.060 Correction agreement.

A correction agreement is a contract between the City and the owner(s) and/or person(s) in charge of the chronic nuisance property in which such person agrees to immediately take all lawful and reasonable actions, which shall be set forth in the agreement, to abate the nuisance activities within a specified time and according to specified conditions. The agreement shall be signed by the person in charge. The agreement shall include the following:

1. The name and address of the person in charge of the property;
2. The street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring;
3. A description of the nuisance activities;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
5. An agreement by the person in charge that the City may inspect the property as may be necessary to determine compliance with the correction agreement;
6. An agreement by the person in charge that the City may abate the nuisance and recover its costs and expenses and monetary penalties pursuant to this chapter from the person in charge for the nuisance if the terms of the correction agreement are not met.

7.50.070 Penalties.

- A. Except as provided in this section, in addition to any other sanction or remedial procedure that may be available, the person in charge is subject to a penalty of five hundred dollars (\$500) per day from the date of the notice issued pursuant to SMC 7.50.040 until the Chief of Police confirms that the property is no longer a chronic nuisance property.
- B. If the agreed course of action results in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty (30) days of the notice issued pursuant to SMC 7.50.040, or such longer period allowed by the Chief of Police in writing, the matter shall be closed without further action or penalty against the person in charge.

- C. An owner who fails to comply with SMC 7.50.050 is subject to a civil penalty of up to twenty-five thousand dollars (\$25,000).
- D. A person in charge who has previously been found to have violated this chapter related to the same chronic nuisance property within the preceding twenty-four months shall be subject to double the penalties provided in subsection A of this section.
- E. The person in charge is not relieved of the duty to correct the violation by paying the penalty associated with such violation.

7.50.08 Commencement of action.

Upon referral from the Chief of Police, the City Attorney may initiate an action in King County Superior Court to abate a chronic nuisance property, and seek penalties pursuant to this chapter, alternative remedies under city or state laws and seek any other relief authorized by law.

7.50.090 Burden of proof.

The City shall have the burden of proof to show by a preponderance of the evidence that the property is a chronic nuisance property pursuant to this chapter. In an action against the owner to recover penalties authorized by SMC 7.50.070(C), the City shall have the burden to prove by a preponderance of the evidence that the owner failed to comply with SMC 7.50.050. Copies of police incident reports, reports of other city departments documenting nuisance activities, and witness statements shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions.

7.50.100 Remedies.

- A. If the court determines a property is a chronic nuisance property pursuant to this chapter, the court may order any of the following:
 - 1. Order the person in charge to immediately abate nuisance activity from occurring on the property;
 - 2. Orders the person in charge to cease renting or leasing the property;
 - 3. Order that the Chief of Police shall have the right to inspect the property to determine if the court's orders have been complied with;
 - 4. Impose a penalty of up to five hundred dollars (\$500) per day against the person in charge for each day from the date the notice was issued until the Chief of Police confirms that the property is no longer a chronic nuisance property;
 - 5. Order the property closed and secured against all unauthorized access, use and occupancy for a period up to one year;
 - 6. Make any other order that will reasonably abate nuisance activities from occurring on the property, including authorizing the City to take action to abate nuisance activities from occurring upon the property if other court orders are not complied with or do not abate nuisance activity on the property and providing that the costs of such city action are to be paid for by the person in charge of the property;

7. Assess and impose costs against the person in charge of the property in the amount it costs the City to abate, or attempt to abate, the chronic nuisance activity.
- B. If the court finds that an owner failed to take all reasonable steps requested in writing pursuant to SMC 7.50.050, the court may impose a civil penalty up to twenty-five thousand dollars (\$25,000).

7.50.110 Additional remedies.

In addition to the remedies authorized by SMC 7.50.100, if as part of its order abating a chronic nuisance property, the court orders a person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation assistance not to exceed three thousand dollars (\$3,000) to any tenant (1) who must relocate because of the order of abatement, and (2) the court finds the tenant did not cause or participate in nuisance activities at the property. For the purposes of this section, the term "tenant" shall have the same meaning as set forth in RCW 59.18.030.

7.50.120 Suspension or revocation of business license.

In addition to any other remedy that is authorized by this chapter or other laws, upon the finding by a court that a property is a chronic nuisance property pursuant to this chapter, the City may suspend or revoke a business license or other city license issued to the property, owner and/or person operating a business on the property.

Section 2. Section 5.05.180 of the SeaTac Municipal Code is amended to read as follows:

5.05.180 Grounds for suspension or revocation.

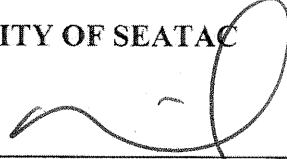
No business license issued pursuant to this chapter shall be suspended or revoked without cause. Cause for suspension or revocation shall include, but not be limited to, the following:

- A. The license was procured by fraud or misrepresentation of fact;
- B. The licensee has failed to comply with any of the provisions of this chapter;
- C. The licensee, or licensee's employees or agents, have been convicted of a crime, or suffered civil judgment or consent decree which bears a direct relationship to the conduct of the business licensed pursuant to this chapter;
- D. The licensee, or licensee's employees or agents, have violated any law or ordinance relating to the regulation of the business licensed pursuant to this chapter, or any health or safety ordinance;
- E. The licensee has caused or permitted a public nuisance to exist;
- F. The licensee, or licensee's employees or agents, have engaged in, have permitted or have acquiesced in unlawful drug related activity on the business premises;
- G. Licensee has failed to pay a civil penalty or to comply with any notice and order of the City Manager, or designee;
- H. Licensee's continued conduct of the business will, for any other reason, result in a danger to the public health, safety or welfare;
- I. The Chief of Police has issued a declaration of chronic nuisance property against the business pursuant to SMC Chapter 7.50.

Section 3. This Ordinance shall be in full force and effect five (5) days after passage and publication as required by law.

ADOPTED this 25th day of October, 2016, and signed in authentication thereof on this 25th day of October, 2016.

CITY OF SEATAAC



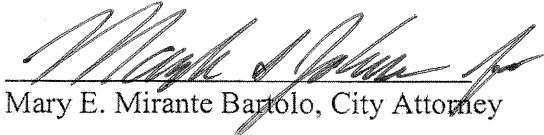
Michael Siefkes, Mayor

ATTEST:



Kristina Gregg, City Clerk

Approved as to Form:



Mary E. Mirante Bartolo, City Attorney

[Effective Date: 11/5/16]