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ORDINANCE NO. C-_____

AN ORDINANCE relating to nuisance properties; amending SMC sections 10.08A.010, 10.08A.020, 10.08A.030, 10.08A.040, 10.08A.050, 10.02.070, 17C.310.010, and 17F.070.520; adopting a new section 10.08A.045 to chapter 10.08A of the Spokane Municipal Code and repealing SMC sections 10.08.030 and 10.20.020.

Section 1. That SMC section 10.08A.010 is amended to read as follows:

10.08A.010 Nuisance Properties - Purpose

~~((A.—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.))~~

~~((B.—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.))~~

The City of Spokane is committed to protecting its citizens from the dangers of properties that are abandoned, where unsafe conditions exist or where crime repeatedly occurs. Such properties are known as “nuisance properties” because of their adverse impact on the quality of life of Spokane’s citizens. Additionally, when owners, financial institutions and persons in charge fail to take responsible action to secure and care for these properties, they deteriorate and become “chronic nuisance” properties. Chronic nuisance properties create a substantial financial burden, pose a significant strain on city services, interfere with other’s use and enjoyment of their lands, and are a prohibited public nuisance. Persons in charge of such properties have a duty to take all reasonable measures to prevent and abate nuisance activity. It is the purpose of this chapter to hold legally and financially accountable the owners and persons in charge of nuisance and chronic nuisance properties, and to provide for the restoration and abatement of such properties. It is also the purpose of this chapter to provide for the closure of abandoned properties that are not subject to the building official process under Chapter 17F.070 SMC.

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Section 2. That SMC section 10.08A.020 is amended to read as follows:

10.08A.020 Definitions

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

A. “Abandoned property”, for purposes of defining a chronic nuisance, means a property over which the person in charge no longer asserts control due to death, incarceration, or any other reason, and which is either unsecured or subject to occupation by unauthorized individuals.

~~((A))~~B. “Abate” means to repair, replace, remove, destroy, return to productive use, 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.

C. “Abatement agreement” means a contract between the City and the person in charge of the chronic nuisance property in which such person agrees to promptly take all lawful and reasonable actions, which shall be set forth in the agreement, to abate the nuisance within a specified time and according to specified conditions.

~~((B))~~D. “Chronic nuisance property” means:

~~((1. — a property on which three or more nuisance activities are observed during any sixty-day period))~~

1. a property on which nuisance activity is observed on three or more occasions during any sixty-day period or on which nuisance activity is observed on seven or more occasions during any twelve-month period, or

2. a property where, pursuant to a valid search warrant, evidence of drug-related activity has been identified two or more times, or

3. any abandoned property where nuisance activity exists.

~~((C))~~E. “Control” means the ability to regulate, restrain, dominate, counteract or govern property or conduct that occurs on a property.

~~((D))~~ E. “Drug-related activity” means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, use, 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. Possession of marijuana that is legal under state law shall not result in enforcement action under this ordinance.

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~~(E)~~G. "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)~~H. "Nuisance activity" means and includes:

1. ~~((a nuisance))~~ Any civil code violation as defined by state law or local ordinance occurring around or near the property, including, but not limited to, the following activities, conditions or behaviors: ~~((; or))~~

a. Litter and Rubbish: SMC 10.08.010.

b. Fire Hazard from Vegetation and Debris: SMC 10.08.040.

c. Any dangerous animal violations: SMC 17C.310.

d. Fire Code Violations: SMC 17F.080.

e. Alcohol beverage control violations, as defined in RCW 66.44.

f. General Nuisance

i. any act or omission, as provided in Chapter 7.48 RCW or Chapter 9.66 RCW or which unreasonably:

a. interferes with the comfort, solitude, health or safety of others; or

b. ~~offends common decency; or~~

c. offends common sensibilities and senses by way of extreme noise, light or odor; or

d. obstructs or renders hazardous for public passage any public way or place; or

e. pollutes or renders less usable any watercourse or water body.

ii. maintaining or permitting upon any land:

a. refrigerator, freezer or other insulated container within which a child could suffocate;

b. a pit, excavation, swimming pool, well or other uncovered hole into which a person could fall;

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c. lumber, metal, plastic, paper, cardboard, or other scrap material deposited in such place and manner as to constitute a hazardous attraction to children;

d. unused or junk vehicle or machinery or parts unless enclosed and secured as required by law for wrecking yards or junk yards;

e. an abandoned or vacant building, structure or part thereof not securely closed to entry;

f. toxic, radioactive, caustic, explosive, malodorous or septic substances, such as putrescent animal, fish or fowl parts, animal or vegetable waste matter, excrement and any material likely to attract or breed flies or rats, unless kept in proper receptacles as provided by the health and refuse laws; or

g. structure, collection of wood, cloth, paper, plastic or glass material, vegetation or flammable substances kept in such manner as to create a substantial risk of combustion or spread of fire.

2. ~~((any of the following activities, behaviors or criminal conduct:))~~ Any criminal conduct, including the attempt and/or conspiracy to commit any criminal conduct, as defined by State or local ordinance occurring on, around, near or having a nexus to a property, including but not limited to:

- a. Stalking: SMC 10.11.060.
- b. Harassment: SMC 10.11.070 through SMC 10.11.072 and SMC 10.11.079.
- c. Failure to disperse: SMC 10.10.010.
- d. Disorderly conduct: SMC 10.10.020.
- e. Assault: SMC 10.11.010, including domestic violence assault, chapter 10.09 SMC.
- f. Reckless endangerment: SMC 10.11.020.
- g. Prostitution: SMC 10.06.030.
- h. Patronizing a prostitute: SMC 10.06.010.

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- i. Disorderly house, as defined by: SMC 10.06.010.
- j. Indecent exposure: SMC 10.06.025.
- k. Lewd conduct: SMC 10.06.020.
- l. Any firearms or dangerous weapons violations listed in: ((SMC 10.11.042 through ~~SMC 10.11.050~~) SMC 10.11.052.
- m. Noise: ((~~SMC 10.08.020~~) SMC 10.08.D.
- n. Loitering for the purpose of engaging in drug-related activity: SMC 10.15.020.
- o. Drug-related activity.
- p. Gang-related activity, as defined in: RCW 59.118.030.
- q. Any crimes of domestic violence.
- r. Any violation of any protection order authorized under chapter 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590.
- s. Warrant arrests, or any instance in which a DOC offender is located at a property while in violation of DOC supervision.
- t. Reckless Driving, Driving Under the Influence, Vehicular Homicide and Assault: RCW 46.61.500 through RCW 46.61.540.
- u. Possession of stolen property: RCW 9A.56; SMC 10.05.064.
- v. Trafficking in stolen property and/or criminal profiteering: RCW 9A.82.
- w. Theft, trafficking, or unlawful possession of commercial metal property: RCW 19.290.
- x. Identity theft: RCW 9.35.020.
- y. Rendering criminal assistance: RCW 9A.76; SMC 10.07.037; SMC 10.07.038; SMC 10.07.039.
- z. Possession of stolen vehicle: RCW 9A.56.068.

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~~((G))~~I. "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))~~J. "Person" means natural person, financial institution, bank, joint venture, partnership, association, club, company, corporation, business trust, organization or the manager, lessee, agent, officer or employee of any of them.

~~((I))~~K. "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))~~L. "Person in charge" of a property means any person in actual or constructive possession or control of a property, including, but not limited to, an owner, occupant, agent or property manager of a property under his control, and any bank or financial institution in actual or constructive possession or which possesses any sort of lien or interest in the property. There may be at any one time multiple persons in charge of a property all of which may be jointly and severally liable under this chapter.

~~((K))~~M. "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))~~N. "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.

Section 3. That SMC section 10.08A.030 is amended to read as follows:

10.08A.030 General Nuisance - Penalty

- ~~A. Any property within the City of Spokane 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.)~~

No person in charge may maintain or permit nuisance activity under section 10.08A.020.H(1)(f) of this chapter upon any land or property within the City of Spokane. Any person in charge who maintains or permits nuisance activity under section 10.08A.020.H(1)(f), and fails to respond to the City and/or refuses to permit the City to fully abate the property, commits a misdemeanor.

The procedures set out in SMC 10.08A.040 for chronic nuisance properties do not apply to this section.

Section 4. That SMC section 10.08A.040 is amended to read as follows:

10.08A.040 Chronic Nuisance Property - Procedure

- A. ~~When the chief of police, or his designee, receives police documentation confirming the occurrence of three or more nuisance activities within a sixty-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 SMC 10.08A.020.~~
1. ~~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 or his designee within ten 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 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.~~
1. ~~If the person in charge fails to respond to the issued infraction the matter shall be referred to the office of 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.~~

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~~1. 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 office of 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.)~~

A. Chronic Nuisance Notice

1. When documentation confirms a chronic nuisance property, as defined by SMC 10.08A.020, the chief of police, or his designee shall notify the person in charge of the property in writing that the property is in danger of being declared a chronic nuisance property.

2. The notice shall indicate the following:

- a. the street address or a legal description sufficient for identification of the property;
- b. a concise description of the nuisance activities that have occurred on the property and whether the property is abandoned;
- c. a warning that the person in charge of the property may be subject to penalties as set forth in this chapter.
- d. a demand that the person in charge respond to the chief of police or his designee within ten days of service of the chronic nuisance notice to discuss the nuisance activities and create a plan to abate the nuisance;
- e. a statement that the person in charge shall have an opportunity to abate the nuisance giving rise to the nuisance; and
- f. a warning that, if the person in charge does not respond, as required, or if the matter is not voluntarily corrected to the satisfaction of the chief of police, or his designee, the City may file an action to abate the property as a chronic nuisance property pursuant to this chapter and/or take other action against the property or person in charge.

3. Such notice shall be either:

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- a. personally served, or
- b. 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.

B. Requirement to Respond

A person in charge who receives notice pursuant to this section must, within ten days, contact the officer who issued the notice to establish a plan of action to eliminate the conditions, behaviors or activities which constitute a nuisance at the property.

C. Abatement Agreement/Approved Plan to Abate

1. The person in charge shall enter into an abatement agreement or otherwise produce a plan approved by the chief of police or his designee to abate the nuisance within fifteen days of the issuance of the chronic nuisance notice.
2. The abatement agreement, or approved plan to abate, shall be signed by the person in charge and shall include the following:
 - a. The name and address of the persons in charge of the property;
 - b. The street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring;
 - c. A description of the nuisance activities and whether the property is abandoned;
 - d. The necessary corrective action to be taken, and a specific date or time by which correction must be completed.

D. Corrective Action

Once the person in charge has entered into an abatement agreement or otherwise produced an approved plan to abate the nuisance, he or she must abide by the approved plan and promptly take corrective action to eliminate the nuisance. Corrective action may include, but is not limited to:

1. Effective tenant screening, leasing and rule enforcement;
2. Implementing physical improvements for crime prevention;

3. Providing security for the property;
4. Evicting persons responsible for the nuisance activity; and
5. Pursuing other remedies available to the owner pursuant to any lease or other agreement.

E. The City of Spokane shall offer services to persons in charge with known mental or physical disabilities in order to facilitate such persons taking all lawful and reasonable corrective action necessary to abate the nuisance.

All corrective action must conform to state and local laws, including but not limited to RCW 59.18.580, the Victim Protection Limitation on Landlord's Rental Decisions.

Section 5. That there is adopted a new section 10.08A.045 to chapter 10.08A of the Spokane Municipal Code to read as follows:

10.08A.045 Penalties

A. Failure to Respond

It is a class 1 civil infraction for any person in charge to fail to respond to the chief of police or his designee within ten days of service of the chronic nuisance notice.

B. Failure to Enter Agreement or Produce an Approved Plan to Abate

It is a class 1 civil infraction for any person in charge to fail to enter into an abatement agreement or otherwise produce an approved plan to abate the nuisance within fifteen days of the issuance of the chronic nuisance notice.

C. Failure to Abate Nuisance

After the issuance of the chronic nuisance notice, and after the time to enter into an abatement agreement or otherwise produce an approved plan has passed, every subsequent nuisance activity is a class 1 civil infraction.

D. The penalties and remedies of this chapter are not exclusive and do not affect any other enforcement actions taken by the City under this chapter, or any other section of the municipal code or law or enforcement actions taken by a different jurisdiction.

Section 6. That SMC section 10.08A.050 is amended to read as follows:

10.08A.050 Commencement of Abatement 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) 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 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 [SMC 10.08A.040](#). 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 year, and may impose a civil penalty and costs.~~

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- ~~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.~~
- ~~1. Costs for such closure shall be submitted to the court for review.~~
 - ~~2. 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.~~
 - ~~3. 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 municipal court is to have jurisdiction of all civil infractions issued pursuant to this chapter.~~
- A. The matter may be referred to the city attorney for review and a determination of whether to initiate legal action.
- B. In any action filed, the City shall have the burden of showing by a preponderance of the evidence that the property is a chronic nuisance property. Police reports, official city reports, and affidavits may be offered as evidence of chronic nuisance. 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. If the superior court determines the property to be a chronic nuisance under this chapter the court may:
1. impose a warrant of abatement ordering the complainant to take all necessary steps to abate, deter and prevent the resumption of such nuisance; which may include but is not limited to, the immediate:
 - A. vacation of the premises;
 - B. closure and securing of the premises;
 - C. removal of litter, rubbish and junk vehicles from the premises;
 - D. safety inspection by Code Enforcement, Building Official, Fire Marshal, or any other government agency;
 - E. removal of personal property subject to seizure and forfeiture pursuant to RCW 69.50.505. or RCW 10.105.010.
 2. impose the expenses of abating, or attempting to abate, the nuisance on the property and/or the person in charge;

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3. impose a fine, civil penalty or award damages;
 4. order the property into receivership in accordance with RCW 7.60 and thereby recover from the property the reasonable, necessary expenses of abating the nuisance and returning the property to productive use;
 5. order the person in charge to pay relocation assistance to any tenant who must relocate because of the order of abatement, and who the court finds not to have caused or participated in nuisance activities at the property;
and
 6. any other further relief deemed appropriate by the court.
- D. In assessing the penalties and remedies, the court may consider the following factors:
1. The actions taken by the person in charge to mitigate or correct the nuisance activity.
 2. The financial condition of the person in charge.
 3. Any known mental or physical disabilities of the person in charge.
 4. The repeated or continuous nature of the nuisance activity.
 5. The statements of the neighbors or those affected by the nuisance activity;
and
 6. Any other factor deemed relevant by the court.
- E. Any fine, civil penalty and/or expense 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. Expenses shall be submitted to the court for review and may be collected on execution.
- F. 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 municipal court is to have jurisdiction of all civil infractions issued pursuant to this chapter.

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Section 7. That SMC section 10.02.070 is amended to read as follows:

10.02.070 Nuisance

- A. A “nuisance” is the unreasonable or unlawful use by a person of his real or personal property, or the unreasonable, indecent or unlawful personal conduct which materially interferes with or jeopardizes the health, safety, prosperity, quiet enjoyment of property or welfare of others, offends common decency or public morality, or obstructs or interferes with the free use of public ways, places or bodies of water.
- B. Nuisance also consists of the specific violations set forth in this title in SMC ((10.08.030)) 10.08A.020.H(1)(f), SMC 10.08.040, SMC 10.24.040 and SMC 12.02.0202.

Section 8. That SMC section 17C.310.010 is amended to read as follows:

17C.310.010 Purpose

- A. **Animal Keeping.**
The purpose of this chapter is to make provisions for and set limits on the keeping of animals within the City limits. This section recognizes the commercial and sport animal keeping activities as well as the desire of citizens to keep pets. The provisions of this section strive to provide the broadest personal discretion in animal keeping. However, since the City is characterized as an intense urban environment with people living in close proximity, this section also emphasizes the significant responsibility of animal owners and keepers to protect the rights and lifestyles of their neighbors. Animal owners and keepers are expected to meet the following requirements as a reflection of their responsibility.
 - 1. **Unrestrained Animals.**
Owners and keepers are to keep all animals contained within a structure or fenced yard or on a leash or other appropriate harness or retraining device capable of safely controlling the animal. As provided in chapter 5.04 of the Spokane County Code, dog may be permitted to run at large. Racing/homing pigeons are allowed to fly unrestrained during periods of exercise, training and racing.
 - 2. **Noisy Animals.**
Owners and keepers are to prevent their animals from making unnecessary or unusual noises to the extent that reasonable persons are annoyed. Chapter 5.04 of the Spokane County Code and 10.08D SMC relate to noisy animals.
 - 3. **Dangerous Dog, Potentially Dangerous Dog and Inherently Dangerous Animals.**
The keeping of dangerous or potentially dangerous dogs shall be regulated pursuant to chapter 10.03 SMC. The keeping of inherently dangerous animals is prohibited in all zones pursuant to SMC

17C.310.150, except as provided in Chapter 5.12 of the Spokane County Code.

4. Potentially Rabid Animals.

Chapter 5.04 of the Spokane County Code prohibits the keeping of any dog over age six months that has not been properly inoculated against rabies. Any animal afflicted with rabies or that has been exposed to a rabid animal or suspected rabid animal shall be either destroyed or detained and treated in a manner directed by the health officer, in accordance with state communicable disease regulations (WAC 246-100-197 Rabies – Measures to Prevent Human Disease).

5. Nuisance Related to Odors.

Owners and keepers are to maintain their animals in a clean and sanitary condition so as not to create offensive odors or other nuisances to the extent that a reasonable person is annoyed. SMC ((~~10.08.030~~)) 10.08A.020.H(1)(f) relates to the creation of a nuisance, including nuisance conditions related to odor.

Section 9. That SMC section 17F.070.520 is amended to read as follows:

17F.070.520 Foreclosure Registration Program

A. Purpose

It is the purpose and intent of this section to establish a Foreclosure Property registration program in order to protect the community from the deterioration, crime, and decline in value in Spokane’s neighborhoods caused by properties in various stages of the foreclosure process, and to identify, regulate, limit, and reduce the number of those properties within the City of Spokane. It is the policy and intent of the City to establish a requirement that the lender or other responsible party(ies) of properties that are in the foreclosure process to register those properties with the City as set forth in this section in order to protect the neighborhoods from the negative impacts of absentee ownership and lack of adequate maintenance and security for properties in the foreclosure process.

B. Definitions

As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise:

1. “Abatement Order” means an appealable order, supported by specific factual findings, issued by the Office of Neighborhood Services and Code Enforcement which directs the Owner of a Foreclosure Property to take certain specific steps, within a specific period of time, to ensure that the relevant property is in compliance with this section.
2. “Enforcement Officer” means the Director of the Office of Neighborhood Services and Code Enforcement or its designee.
3. "Evidence of Foreclosure Status" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is a Foreclosure Property. Such conditions include, but are not limited to, overgrown and/or dead vegetation;

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- accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or debris; statements by neighbors, passersby, delivery agents, or government employees that the property is in foreclosure; the presence of boards over doors, windows or other openings in violation of applicable building code; and for residential properties, the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation.
4. "Foreclosure" means the legal processes described in Title 61, Revised Code of Washington, in which a mortgagee or other lien holder terminates a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. For purposes of this section, the foreclosure process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title or other means, is sold to a non-related, bona fide purchaser in an arms'-length transaction to satisfy the debt or lien.
 5. "Foreclosure Property" means a property that is (1) under a current notice of default and/or notice of trustee's sale; (2) the subject of a pending tax assessor's lien sale; (3) the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; (4) a property title to which has been transferred under a deed in lieu of foreclosure/sale, or (5) subject to a contract forfeiture. Property acquired by Spokane County at a tax foreclosure sale under chapter 84.64 RCW is not "Foreclosure Property" within the meaning of this section. For purposes of this section, a property remains a Foreclosure Property until it is sold at an arms'-length transaction to a non-related bona fide purchaser or until the foreclosure action has been dismissed and any default has been cured.
 6. "Lender" means any person who makes, extends, holds, or services a real estate loan agreement and includes, but is not limited to, mortgagees; beneficiaries under deeds of trust; underwriters under deeds of trust; vendors under conditional land sales contracts; trustees and a successor in interest to any mortgagee, beneficiary, vendor or trustee and any other lien holder on the property. The term also includes any mortgagee, beneficiary or trustee that accepts a deed in lieu of foreclosure.
 7. "Local Agent" means an individual property manager, property management company, or similar person or entity, located in Spokane County and responsible for, having the authority to make decisions and required expenditures concerning, the maintenance and security of a Foreclosure Property and the abatement of nuisance conditions at the property.
 8. "Owner" means any individual or group of natural persons, partnership, association, corporation or other entity having legal or beneficial title in real property including any borrower.

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9. "Property" means any unimproved or improved, residential or commercial real property, or portion thereof, situated in the City, and includes the buildings or structures located on the property regardless of condition.
 10. "Responsible Party" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property, including but not limited to an Owner, borrower, and Lender as defined in this section.
- C. Establishment of a Registry
The Office of Neighborhood Services and Code Enforcement shall establish and maintain a Foreclosure Property Registry to implement the terms of this section.
- D. Registration of Foreclosure Properties.
1. Any Lender which holds or services a mortgage on real property located in the City of Spokane shall inspect the property upon mortgage default.
 2. The Enforcement Officer can also initiate the registration process.
 3. Any Lender or other Responsible Party(ies) of a Foreclosure Property as defined in this section shall register that property with the City of Spokane Office of Neighborhood Services and Code Enforcement within ten (10) days of the property becoming a Foreclosure Property within the meaning of this section and initial inspection or of receiving notice from the City of the requirements of this section, and every 12 months thereafter until the property is no longer a Foreclosure Property within the meaning of this section. A separate registration is required for each property.
 4. The content of the registration shall include:
 - a. Proof of ownership, or financial interest, such as a lien or loan,
 - b. The name, address, phone number, and email address for the Owner, Lender, and Responsible Party and twenty-four hour contact phone number of the Local Agent of the respective entity; and
 - c. Documentation which demonstrates the property is foreclosed, pending foreclosure, or subject to foreclosure, trustee's sale, tax assessor's lien sale or other legal proceedings.
 5. The Lender, Owner, or Responsible Party shall notify the Enforcement Officer within ten (10) days of the date of any change in the information contained in the registration.
 6. Mortgagees who have existing Foreclosure Properties on the effective date of this ordinance have 30 calendar days from the effective date to register the property with City of Spokane Office of Neighborhood Services and Code Enforcement. A separate registration is required for each property.
 7. All property registrations are valid for one year from the date of entry of registration as recorded by Office of Neighborhood Services and Code Enforcement. Subsequent registrations are due every twelve (12) months thereafter for renewal and must certify required registration data is current and correct.

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- E. Minimum Property Maintenance Requirements.
While a Foreclosure Property is registered, the Lender or Responsible Party shall be required to:
1. maintain and keep Foreclosure Property free of conditions including, but not limited to:
 - a. weeds, dry brush, dead vegetation, trash, junk, debris, building materials and junk vehicles,
 - b. accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), and discarded personal items including, but not limited to, furniture, clothing, or large and small appliances, and
 - c. graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure,
 2. secure ponds, pools and hot tubs and ensure that they do not become a public nuisance,
 3. secure the Foreclosure Property to prevent access by unauthorized persons, including, but not limited to, the following: the closure and locking of windows, doors (walk-through, sliding and garage), gates, and any other opening of such size that it may allow a child or any other person to access the interior of the property and or structure(s). Securing also includes boarding as applicable. Preferred material for boarding shall be painted with an exterior grade paint that matches and/or coordinates with the color of the exterior of the structure, or is of a material that mimics glazed windows and intact doors.
 4. Post the property with no trespassing signs and current emergency contact information for the local agent.
 5. take any other action necessary to prevent giving the appearance that the property is abandoned, and
 6. monitor the Foreclosure Property monthly or more frequently as necessary to prevent the creation of a nuisance.
- F. Monitoring of Foreclosure Property.
1. Upon registration, the City will provide regular monitoring of Foreclosure Properties including, but not limited to, periodic site visitation, which will not exceed the City's rights of access as well as notification to Lender or Responsible Party if the property begins to exhibit characteristics established in RCW 35.80.010. The City's monitoring of Foreclosure Properties does not relieve the Lender or other Responsible Party from monitoring and maintaining the property as required by this section.
 2. At least monthly while a Foreclosure Property is registered, the Lender or Responsible Party shall inspect the Foreclosure Property.
- G. Waiver for City to Abatement – Trespass of Unauthorized Individuals.
1. As part of the Foreclosure Property registration, the Owner, Lender, Local Agent, Responsible Party, or other person having the legal authority to do so shall waive any objection to the City to enter onto the property for purposes of abating any condition that would constitute an unfit or

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substandard building as established in RCW 35.80.010, nuisance condition under [SMC 10.08.010](#) Litter, [SMC \(\(10.08.030\)\) 10.08A.020.H91\)\(f\)](#) Nuisance, [SMC 10.10](#) Graffiti, [10.16](#) Junk Vehicle, and to issue a trespass order against any unauthorized individual from the Foreclosure Property.

2. The City shall notify the Owner, Lender, Responsible Party, or Local Agent ten (10) days prior to the City taking abatement action in order to allow the Owner, Lender, Responsible Party, or Local Agent to abate the condition first unless such abatement constitutes an emergency, in which case, the City may abate the emergency immediately.
3. The cost of the abatement of any of the illustrative conditions contained in paragraph E above shall be charged against the Foreclosure Property pursuant to [SMC 08.02.067](#) and shall be lienable pursuant to [SMC 17F.070.500](#) and other applicable sections of the municipal code pursuant to state law.

H. Local Agent

The Lender or Responsible Party shall provide the City with the name, address, telephone number, email address and 24-hour contact information of a Local Agent who has the authority to act to respond to complaints regarding the Foreclosure Property and to remedy any nuisance, substandard or unfit conditions found on the property.

I. Annual Foreclosure Property Registration Fee.

The Lender or Responsible Party shall pay the annual non-refundable Foreclosure Property registration fee as set forth in [SMC 08.02.0675](#).

J. Policies and Procedures

The Office of Neighborhood Services and Code Enforcement shall develop procedures to implement this section which are consistent with and do not conflict with this section, the Spokane Municipal Code, or Washington law.

K. Violation

1. Any person, firm or entity who fails to a Foreclosure Property pursuant to the requirements of this section shall be subject to a class 1 civil infraction. Each day in which a Foreclosure Property which is subject to this section is not registered shall constitute a separate violation.
2. Failure to maintain a Foreclosure Property as required by this section is a criminal misdemeanor violation under [SMC 10.08.030](#) for maintaining a nuisance property in addition to applicable penalties for nuisance conditions in the municipal code or state law.
3. Failure to provide notification of changes in ownership of a Foreclosure Property under this section is a class 1 civil infraction.

L. Removal of properties from the registry

1. A property may only be removed from the Foreclosure Property registry upon the Lender's, Owner's, or Responsible Party's written certification that (1) the mortgage or lien on the property has been satisfied or legally discharged, (2) the property is no longer in mortgage default, or (3) the Foreclosure Property has been sold to a non-related party in a bona-fide, arms' length transaction.

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- 2. A Lender’s statement that it no longer desires to pursue foreclosure, has filed a dismissal of lis pendens and/or summary of final judgment and/or certificate of title or otherwise, such as deed in lieu of foreclosure shall not be the basis for removal of a Foreclosure Property from the registry under this section.
- 3. For purposes of this section, a transfer to another entity which is under common ownership with the Lender, as determined in the sole discretion of the Office of Neighborhood Services and Code Enforcement, is not an arms’ length transaction.

M. Transfer of Ownership

- 1. If the mortgage on a registered Foreclosure Property is transferred, the transferee shall be subject to the requirements of this section and shall, within five (5) days of the transfer of the mortgage, register the property as a new registration in accordance with this section. Any previously unpaid registration fees are the responsibility of the transferee and are due and payable upon the new registration.
- 2. If the mortgagee sells a Foreclosure Property in an arms’-length transaction to a non-related person or entity, the transferee is subject to the terms of this section and shall register the property as a new registration under this section within five (5) days of the sale. Any previously unpaid registration fees shall be the responsibility of the new owner.

Section 10. That SMC 10.08.030 is repealed.

Section 11. That SMC 10.20.020 is repealed

PASSED BY THE CITY COUNCIL ON _____, 2016.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date