

**CITY OF MONROE
ORDINANCE NO. 026/2016**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING TITLE 6 MMC BY THE ADDITION OF A NEW CHAPTER 6.05 CHRONIC NUISANCE PROPERTIES THERETO; DESIGNATING PROPERTIES WITH A DOCUMENTED, PERSISTENT HISTORY OF LEGAL NONCOMPLIANCE AS CHRONIC NUISANCES SUBJECT TO ENFORCEMENT AND ABATEMENT; ADOPTING STANDARDS AND PROCEDURES THEREFORE; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

WHEREAS, a fundamental priority of the City of Monroe is to protect the public health, safety and welfare, including the right of local residents to enjoy the use of their property without interference from persistent, unlawful activities occurring upon neighboring parcels; and

WHEREAS, the City Council desires to designate premises upon which violations have repeatedly occurred with a specified period as chronic nuisance properties subject to the enforcement and abatement procedures set forth herein; and

WHEREAS, the regulations adopted under this ordinance will serve the public interest by deterring the establishment of chronic nuisance properties and facilitating the City's regulation, enforcement and abatement of such properties.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of Title 6 MMC. Title 6 of the Monroe Municipal Code is hereby amended by the addition of a new Chapter 6.05 MMC, Chronic Nuisance Properties, to provide in its entirety as follows:

**Chapter 6.05
CHRONIC NUISANCE PROPERTIES**

Sections:

- 6.05.010 Intent.
- 6.05.020 Definitions.
- 6.05.030 Determination of chronic nuisance - Notice and demand.
- 6.05.040 Violation - Penalty.
- 6.05.050 Enforcement.
- 6.05.060 Continuing nuisance activities - Permitting a chronic nuisance.
- 6.05.070 Diversion.

6.05.010 Intent.

Residents of the City of Monroe should be able to enjoy ownership, use and possession of property without negative interference from chronic nuisance properties. The intent of the Monroe city council in enacting this chapter is to exercise the powers granted by the state of Washington to code cities to prevent and abate nuisances, to declare what shall be a nuisance, and abate the same, and to impose fines upon parties who create, continue or suffer nuisances to exist. In addition, the council intends to exercise the power granted by the state 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, and to provide for the arrest, trial, and punishment of persons charged with repeated violations of city ordinances.

6.05.020 Definitions.

For purposes of this chapter:

- A. "Chief of police" means the city of Monroe chief of police or the chief's designee.
- B. A "chronic nuisance property" is:
 - 1. A property that, within any sixty (60) day period:
 - a. Has had three (3) or more nuisance activities occur or exist upon the property; or
 - b. Has had three (3) or more nuisance activities occur within two hundred feet of the property that involve, at least in part, the person in charge of the property; or
 - c. Has had nuisance activities either occur or exist upon the property or within two hundred feet of the property that involve, at least in part, the person in charge of the property for a combined total of three (3) or more times.
 - 2. A property that, within any three hundred sixty-five (365) day period:
 - a. Has had seven (7) or more nuisance activities occur or exist upon the property; or
 - b. Has had seven (7) or more nuisance activities occur within two hundred feet of the property that involve, at least in part, the person in charge of the property; or
 - c. Has had nuisance activities either occur or exist upon the property or within two hundred feet of the property that involve, at least in part, the person in charge of the property for a combined total of seven (7) or more times.
- C. "City attorney" means the city of Monroe city attorney or the city attorney's designee.
- D. "Control" means the power or ability to direct or determine conditions and/or activities located on or occurring on a property.
- E. "MMC" means the Monroe Municipal Code, as in effect at the date of enactment of the ordinance codified in this section or as thereafter amended.
- F. "RCW" means the Revised Code of Washington, as in effect at the date of enactment of the ordinance codified in this section or as thereafter amended.
- G. "Nuisance activity" means:
 - 1. Any of the following activities, behaviors or conduct:
 - a. Harassment offenses as defined in MMC 9.04.060.

- b. Assault as defined in MMC 9.04.010.
 - c. Reckless endangerment as defined in MMC 9.04.050.
 - d. Disorderly conduct as defined in MMC 9.08.050.
 - e. Lewd conduct as defined in Chapter 9.06 MMC.
 - f. Littering as defined in MMC 9.03.340 and RCW 70.93.060.
 - g. Prostitution, prostitution loitering, patronizing a prostitute, permitting prostitution and/or promoting prostitution as defined in Chapter 9.06 MMC.
 - h. Liquor-related offenses as defined in Chapter 66.28 RCW, Chapter 66.44 RCW and Chapter 9.24 MMC.
 - i. Fraud-related offenses as defined in MMC 9.03.180 and Chapter 9A.60 RCW.
 - j. Possession, manufacture, or delivery of a controlled substance or related offenses as defined in Chapter 9.20 MMC and Chapter 69.50 RCW.
 - k. Violations of anti-harassment, stalking, no-contact, drug off-limits and all other orders as defined in MMC 9.14.140.
 - l. Gambling-related offenses as defined in Chapter 9.46 RCW and Chapter 9.47 RCW.
 - m. Firearms and dangerous weapons offenses as defined in MMC 9.03.330 and Chapter 9.41 RCW.
 - n. Possession of stolen property offenses as defined in MMC 9.03.170, MMC 9.10.130 and Chapter 9A.56 RCW.
 - o. Any attempt, solicitation or conspiracy to commit any of the above activities, behaviors or conduct, as defined in MMC 9.03.100 and Chapter 9A.28 RCW.
2. Activities, behavior or conduct that violates any of the following city of Monroe regulatory codes:
- a. Title 5 MMC (Business Regulations and Licensing).
 - b. Title 8 MMC (Animals).
 - c. Title 6 MMC (Health and Sanitation).
 - d. Title 18 MMC (Planning and Zoning).
 - e. Title 15 MMC (Building and Construction).
3. Nuisance-related activities as defined in Chapter 7.48 RCW, Chapter 7.48A RCW, and Chapter 9.66 RCW.
4. Gang-related activity as defined in RCW 59.18.030.
- H. "Owner" means one or more persons, jointly or severally, in whom is vested all or any part of the legal title to property, or all or part of the beneficial ownership and a right to present use and enjoyment of the property, including any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.
- I. "Person" means an individual, group of individuals, corporation, government or governmental agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.
- J. "Person in charge of the property" means any person in actual or constructive possession of the property, including but not limited to an owner, lessee, tenant or occupant with control of the property.
- K. "Property" means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, grounds,

vacant lots, facilities, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent.

6.05.030 Determination of chronic nuisance - Notice and demand.

A. When the chief of police receives police reports and/or other relevant evidence documenting the existence of a chronic nuisance property, the chief of police may independently review such reports and/or evidence to determine whether the property is a chronic nuisance property as defined in this chapter.

B. If, following the review described in subsection (A) of this section, the chief of police determines that the property is a chronic nuisance property, he or she shall notify the person in charge of the property in writing that the property is a chronic nuisance property and demand that he/she cease and desist from causing or allowing nuisance activities, as defined in this chapter, to continue.

1. The notice and demand shall contain substantially the following information:

- a. The name and address of the person to whom the letter is issued;
- b. The location of the property by address or other description sufficient for identification of the property;
- c. A statement that the chief of police has determined the property to be a chronic nuisance property;
- d. A concise description of the documented nuisance activities upon which the determination was based;
- e. A warning that there is potential civil and/or criminal liability for continuing to cause or allow nuisance activities, as defined in this chapter, to occur upon and/or within two hundred feet of the property; and
- f. The name and telephone number of the police department representative who is responsible for handling inquiries from the person in charge of the property or others with an interest in the property.

2. The notice and demand shall be served by means of personal service, or by mailing a copy of the notice to the person in charge of the property at his/her last known address, certified mail, return receipt requested, or by posting a copy of the notice and demand conspicuously upon the property.

3. The notice and demand must be served within thirty (30) days of the occurrence of the last nuisance activity which qualified the property as a chronic nuisance property under the definitions of this chapter.

4. Proof of service shall be made by a written declaration under penalty of perjury by the person effecting the service, declaring the time and date of service and the manner by which service was made.

5. A copy of the notice and demand shall be served upon the owner of the property at the address shown on the tax rolls of the county in which the property is located and/or the occupant of the property at the address of the property, if these persons are different than the person in charge of the property.

C. The chief of police may refer the matter for enforcement under MMC 6.05.050 if, within six months of service of the notice and demand, the chief of police receives an additional police report documenting the occurrence of a nuisance activity:

1. Upon the property; or

2. Within two hundred feet of the property and involving, at least in part, the person in charge of the property.

6.05.040 Violation - Penalty.

A. Any property within the city that is a chronic nuisance property is in violation of this chapter and subject to the remedies described herein, and to the enforcement procedures, remedies and penalties set forth in Chapter 1.04 MMC, and/or to the enforcement procedures, remedies and penalties set forth in Chapter 6.04 MMC.

B. Any person in charge of property that is a chronic nuisance property is in violation of this chapter and subject to the remedies described herein, and to the enforcement procedures, remedies and penalties set forth in Chapter 1.04, and to the enforcement procedures, remedies and penalties set forth in Chapter 6.04 MMC unless he/she can show that he/she is in compliance with a written plan of action that he/she has entered into with the city to abate the nuisance, as described in MMC 6.05.070.

C. Whenever the city issues a notice and order of code violation or notice of civil infraction to more than one person because of a violation of this chapter, those persons shall be jointly and severally liable.

6.05.050 Enforcement.

A. Notwithstanding any other provision of the Monroe Municipal Code, the city is authorized to take appropriate action to enforce compliance with the provisions of this chapter. Said enforcement action may include, but is not limited to, any of the following remedies:

1. Issuance by the chief of police of a notice and order of code violation or a notice of civil infraction in accordance with Chapter 1.04 MMC; and/or
2. Revocation by the city administrator or his/her designee of a business license issued under Chapter 5.02 MMC; and/or
3. Application by the city attorney to any court of competent jurisdiction for abatement, injunction, mandamus and/or other appropriate action or proceeding to prevent continuing nuisance activities at the property and/or restraining any person from violating any of the provisions of this chapter and compelling compliance with the provisions herein. If the city substantially prevails in any such action or proceeding, the person shall promptly pay all costs incurred by the city, including incidental expenses, as defined by MMC 1.04.060. Without prejudice to the foregoing, said costs may be collected by assessment lien in accordance with MMC 1.04.060.

B. Nothing in this chapter shall be construed to prevent or prohibit the city from pursuing immediate relief from nuisance activities at a property by any other means available by law, including but not limited to summary abatement under MMC 1.04.060 and/or an order of the fire code official under Chapter 15.04 MMC.

C. The penalty and enforcement provisions provided in this chapter shall not be deemed exclusive and the city may pursue any remedy or relief it deems appropriate.

D. The failure to prosecute and/or convict an individual for the violation(s) constituting the nuisance activities is not a defense to an action under this chapter.

9.64.060 Continuing nuisance activities - Permitting a chronic nuisance.

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

- B. Permitting a chronic nuisance occurs when a person:
 1. Has been issued a notice of code violation or notice of civil infraction under this chapter; and
 2. Has allowed any additional nuisance activity on the property within sixty (60) days of issuance of the notice of code violation or notice of civil infraction; and
 3. At the time the additional nuisance activity occurred, the notice of code violation or notice of civil infraction citation has not been reversed or otherwise dismissed on appeal by an order of the city of Monroe hearing examiner or a court of competent jurisdiction.
- C. Permitting a chronic nuisance is a misdemeanor.
- D. Each nuisance activity that is allowed on the property as described in this section shall constitute a separate offense.
- E. It shall be a defense to permitting a chronic nuisance if the person in charge of the property can show that he/she is in compliance with a written plan of action that he/she has entered into with the city to abate the nuisance, as described in MMC 6.05.070.

9.64.070 Diversion.

If satisfied of the good faith of the person in charge of the property, the chief of police may enter into a stipulated agreement and/or order for abatement of nuisance activities with the person in charge of the property.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should 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.

Section 3. Effective Date. This ordinance or a summary thereof shall be published as required by law and shall be in full force and effect thirty (30) days from and after its final passage.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 13th day of December, 2016.

1st Reading: December 6, 2016
 Final Reading: December 13, 2016
 Published: December 20, 2016
 Effective: January 12, 2017

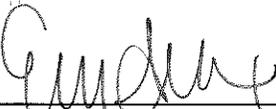
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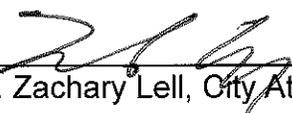
 Geoffrey Thomas, Mayor

ATTEST:



 Elizabeth M. Smoot, MMC, City Clerk

APPROVED AS TO FORM:



 J. Zachary Lell, City Attorney