

# CITY OF SPOKANE VALLEY

## Request for Council Action

**Meeting Date:** May 23, 2023

**Department Director Approval:**

**Check all that apply:**    consent    old business    new business    public hearing  
 information    admin. report    pending legislation    executive session

**AGENDA ITEM TITLE:** Second Reading of Proposed Ordinance 23-010 amending chapters 7.05 and 17.100 SVMC related to chronic nuisances.

**GOVERNING LEGISLATION:** Chapter 7.05 SVMC; chapter 17.100 SVMC; chapter 7.48 RCW; and chapter 7.43 RCW.

**PREVIOUS COUNCIL ACTION TAKEN:** Adoption of chapter 7.05 SVMC, relating to nuisances, in 2003; amended in 2005, 2006, 2008, 2012, 2017, 2018, and 2019. Chapter 17.100, which relates to enforcement, was recodified in its entirety in 2016 and amended in 2018 and 2019. In December 2022, staff presented key considerations and the framework of the City’s existing chronic nuisance code as a form of review. During this discussion, Council posed several questions on the possibility of updating the current chronic nuisance provisions. Staff drafted a code text amendment implementing changes congruent with Council’s desire to enhance the chronic nuisance code. City Council heard an administrative report on the proposed changes on April 25, 2023 and a first reading on May 16, 2023.

**BACKGROUND:** In 2018, the City Council adopted chronic nuisance provisions under chapter 7.05 SVMC to address the rising number of nuisance properties associated with extensive criminal activity. The City has altered and refined the nuisance provisions over the years to make them more effective or to address new items as appropriate. Council had an administrative report in December 2022 and requested staff to look at possible amendments to further assist in addressing chronic nuisances within the City. Staff have identified revisions to chapters 7.05 and 17.100 SVMC to address Council’s desire to bolster the City’s ability to address chronic nuisances.

The proposed ordinance is a City-initiated code text amendment to broaden the scope of what constitutes a chronic nuisance property and to more efficiently abate chronic nuisance properties. The proposed ordinance more closely resembles those in neighboring jurisdictions and will provide staff with the necessary tools to effectively abate more chronic nuisances.

The primary changes are as follows:

Tiered Approach. A tiered approach will consist of multiple options to qualify a property as a chronic nuisance. These include:

- adding a second shorter time period option (Three or more nuisance activities within a sixty-day period);
- expanding the definition of “nuisance activities” to include general nuisances, not just criminal activity;
- adding abandoned properties where nuisance activities exist to the definition of chronic nuisance property; and
- adding a provision solely for drug properties with a stricter violation to timeframe ratio (two in twelve months).

These changes will be made primarily through modifications to the definition “chronic nuisance property” and adding a definition for “nuisance activities”. A notable change within the definition of “ongoing criminal activity” is the removal of the blanket exemption for domestic violence. Many other jurisdictions do not have exemptions and instead approach domestic violence related activity, for the purpose of chronic nuisance determinations, on a case by case basis, taking into account the totality of the circumstances.

Enforcement. The process for enforcement will remain largely the same. However, a provision that a property owner or person in charge *must* contact the City within ten days from receipt of the notice and order in order to enter into a VCA has been added to allow the City to demonstrate the responsible person’s desire (or lack of desire) to work on addressing the nuisance activities and criminal activities.

Abatement. A receivership provision has been added, pursuant to chapter 7.60 RCW. This provision allows the City, upon a determination by the Superior Court that a property is a chronic nuisance, to close the property, board it up, and sell it through receivership so that the property can be returned to beneficial use. This process eliminates the possibility of the property being inundated with squatters and/or eventually returned to the persons responsible for the nuisance conditions in the first place. A provision was added to SVMC 17.100.325 to allow receivership as a remedy for chronic nuisances.

Detailed changes are shown in “redline” in the proposed ordinance, attached to this RCA.

**OPTIONS:** Move to approve Ordinance 23-010 or take other action deemed appropriate.

**RECOMMENDED ACTION OR MOTION:** Move to approve Ordinance 23-010 amending chapters 7.05 and 17.100 SVMC related to chronic nuisances.

**BUDGET/FINANCIAL IMPACTS:** No direct impacts anticipated.

**STAFF CONTACT:** Erik Lamb, Deputy City Manager; Caitlin Prunty, Deputy City Attorney; Jenny Nickerson, Building Official.

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**ATTACHMENTS:** Draft Ordinance 23-010

**CITY OF SPOKANE VALLEY  
SPOKANE COUNTY, WASHINGTON  
ORDINANCE NO. 23-010**

**AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, AMENDING CHAPTER 7.05 OF THE SPOKANE VALLEY MUNICIPAL CODE REGARDING CHRONIC NUISANCE VIOLATIONS, AND AMENDING CHAPTER 17.100 OF THE SPOKANE VALLEY MUNICIPAL CODE REGARDING ABATEMENT OF CHRONIC NUISANCE VIOLATIONS.**

**WHEREAS**, pursuant to RCW 35A.11.020 and RCW 35.22.280(30), the City of Spokane Valley (City) is authorized to “declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;” and

**WHEREAS**, pursuant to Chapter 7.48 RCW, the City is authorized to obtain an order for warrant of abatement of public nuisances that may exist within the City; and

**WHEREAS**, pursuant to chapter 7.43 RCW, the City is authorized to determine and abate drug nuisance properties that may exist within the City; and

**WHEREAS**, pursuant to RCW 7.60, the superior court may appoint a receiver to act as a custodian of a chronic nuisance property on application of the City; and

**WHEREAS**, in 2018, the City adopted amendments to chapter 7.05 of the Spokane Valley Municipal Code (SVMC) to declare what conditions shall be chronic nuisances; and

**WHEREAS**, in 2018, the City adopted amendments to chapter 17.100 SVMC regarding administrative procedures for enforcement of code violations, including public and chronic nuisances; and

**WHEREAS**, there exists within the City a number of properties that are creating significant adverse impacts on the surrounding community due to a combination of criminal activity, general nuisance conditions, and violations of civil law; and

**WHEREAS**, the City Council finds that a broader approach to chronic nuisance and an additional means of abatement, in the form of receivership, is in the best interest of the public health, safety, and welfare; and

**WHEREAS**, the City Council desires to amend the applicable chronic nuisance provisions in the SVMC to allow the City to better address and eliminate chronic nuisances and to provide necessary updates to better protect the public health, safety, and welfare.

**NOW, THEREFORE**, the City Council of the City of Spokane Valley, Spokane County, Washington, ordains as follows:

**Section 1.** **Amendment.** Chapter 7.05 of the Spokane Valley Municipal Code is hereby amended as follows. Any section of Chapter 7.05 SVMC not identified herein shall remain unchanged.

**7.05.010 Purpose and intent.**

The purpose and intent of [Chapter 7.05](#) SVMC is to create and maintain a safe and healthy environment for the citizens of the City by identifying and eliminating the conditions that contribute to injury, illness,

devaluation of property, reduction in the quality of life, and the incidence of crime through the existence of nuisance ~~conditions~~ activities on public and private property. Nuisance properties create a substantial financial burden, pose a significant strain on city services, and interfere with other's use and enjoyment of their property.

**7.05.020 Definitions.**

In addition to any definitions contained in Appendix A, the following words shall, for the purposes of ~~c~~Chapters 7.05 and 17.100 SVMC, be defined as:

"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.

"Chronic Nuisance Property" means:

1. A property on which three or more nuisance activities exist or have occurred during any sixty-day period, with at least one of the nuisance activities being classified as ongoing criminal activity related to the property; or

2. A property on which five or more nuisance activities exist or have occurred during any twelve-month period, with at least one of the nuisance activities being classified as ongoing criminal activity related to the property; or

3. Any abandoned property where nuisance activities exist or have occurred; or

4. A property which, upon request for execution of a search warrant, has been the subject of a determination by a court two or more times within a twelve-month period that probable cause exists that illegal possession, manufacture, or delivery of a controlled substance or related offense as defined in chapter 69.50 RCW has occurred on the property.

"Control" means the power or ability to direct or determine conditions at a property or regulate, restrain, dominate, or govern property or conduct that occurs on a property.

"Days" are counted as business days when five or fewer days are allowed to perform an act required by ~~c~~Chapter 7.05 SVMC. "Days" are considered calendar days when more than five days are allowed to perform an act required by ~~c~~Chapter 7.05 SVMC. "Days" are counted by excluding the first day, and including the last day, unless the last day is a holiday, Saturday, or Sunday, pursuant to RCW 1.12.040, as now adopted or hereafter amended.

"Determination of compliance" means a written determination by the city manager or designee that the violation(s) stated in the warning, voluntary compliance agreement, notice and order, stop work order, or other applicable order have been sufficiently abated so as to comply with the SVMC.

"Graffiti" means an unauthorized marking, symbol, inscription, word, figure, design, or other inscribed material that has been placed upon any property through the use of paint, ink, dye, or any other substance capable of marking property.

"Impound" means to take and hold a vehicle in legal custody pursuant to law.

"Inoperable" means incapable of being operated legally on a public highway, including, but not limited to, not having a valid, current registration plate or a current certificate of registration.

"Junk vehicle" means a vehicle meeting at least three of the following criteria:

1. Is three years old or older;
2. Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, or missing wheels, tires, motor, or transmission;
3. Is apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

“Nuisance” means a person’s unreasonable or unlawful use of real or personal property, or unreasonable, indecent, or unlawful personal conduct or omission of conduct which materially interferes with, obstructs, 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.

“Nuisance Activities” means and includes:

1. Any structure, use, activity, conduct, or condition that constitutes a nuisance pursuant to SVMC 7.05.040;
2. Ongoing criminal activity related to the property;
3. Any civil code violation as defined by state or local ordinance occurring on the property or around or near the property that has a reasonable and proximate connection to the property.
4. For purposes of this definition “civil code violation” means, civil judgment, issuance of a civil penalty, issuance of a notice and order, or any act or conduct which the City can establish, by a preponderance of the evidence, exists or has occurred regardless of whether such act resulted in a civil penalty. A civil infraction which is deferred or subject to pretrial diversion may be counted as a violation if the violation is proved by a preponderance of the evidence. A finding of not committed on a civil infraction shall not constitute a violation under this chapter.

“Ongoing criminal activity related to the ~~premises~~property” means that (1) criminal activity is or has been occurring at the ~~premises~~property; or (2) criminal activity is or has been occurring near the ~~premises~~property and such activity has a reasonable and proximate connection to the ~~premises~~property, whether by owners, persons in charge, occupants, or persons visiting such owners or occupants. Examples of conduct or actions that constitute criminal activity occurring at or near the ~~premises~~property ~~of the subject property~~ include, but are not limited to, the following:

1. Service of a search warrant by law enforcement personnel; or
2. Arrest of one or more individuals by law enforcement personnel during any 24-hour period; or
3. Commission of a misdemeanor, gross misdemeanor, or felony at or near the ~~premises~~property and where there is a reasonable and proximate connection between the crime or criminal and the ~~premises~~property, including those visiting the owner, person in charge, or occupants of the ~~premises~~property; or
4. Visits by law enforcement personnel which occur based upon a reasonable belief by law enforcement that a crime is occurring or has occurred, but which do not result in any of the actions identified in subsections (1) through (3) of this definition; provided, that visits alone may not form the sole basis for determining a ~~premises~~property to be a chronic nuisance ~~premises~~property.

~~For purposes of this definition, service of warrants, arrests, or commission of misdemeanor or felony domestic violence shall not be considered criminal activity.~~

“Person” means any public or private individual, sole proprietorship, association, partnership, corporation, or legal entity, whether for-profit or not-for-profit, and the agents and assigns thereof.

“Person in charge” of a property means the owner and, if different than the owner, any other person in actual or constructive possession of a property, including but not limited to a lessee, tenant, occupant, agent, or manager of a property.

“Person(s) responsible for a junk vehicle nuisance violation” means any one or more of the following:

1. The land owner where the junk vehicle is located as shown on the last equalized assessment roll; or
2. The last registered owner of the vehicle, unless the owner in the transfer of ownership of the vehicle has complied with state law; or
3. The legal owner of the vehicle.

“Person(s) responsible for a nuisance violation” means the person or persons who caused the violation, if that can be determined, and/or the owner, person in charge, lessor, tenant, or other person(s) entitled to control, use, and/or occupancy of the property and the abutting public rights-of-way.

“Property” means a parcel or lot of real property including property used as residential or commercial property, a building, including but not limited to the structure or any separate part or portion thereof, whether permanent or not, or the ground itself, a unit within a building, or a mobile home, manufactured home, or a recreational vehicle placed on a parcel or lot of real property.

“Vehicle,” for the purposes of SVMC [7.05.040\(N\)](#), includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks, pursuant to RCW [46.04.670](#).

#### **7.05.030 Compliance, authority and administration.**

In order to discourage public nuisances and otherwise promote compliance with ~~c~~Chapter [7.05](#) SVMC, the city manager or designee may, in response to field observations, determine that violations of ~~C~~chapter [7.05](#) SVMC have occurred or are occurring, and may utilize any of the compliance provisions set forth in ~~C~~chapter [17.100](#) SVMC.

#### **7.05.040 Nuisances prohibited.**

No person, firm, or entity shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the City including on the property of any person, firm, or entity or upon any public rights-of-way abutting a person, firm, or entity’s property. Prohibited public nuisances include, but are not limited to:

##### A. Vegetation.

1. Any vegetation, or parts thereof, which hang lower than eight feet above any public walkway or sidewalk; or hang lower than 14 feet above any public street; or which are growing in such a manner as to obstruct or impair the free and full use of any public walkway, sidewalk, or street; or violate City clearview triangle regulations. The City shall be responsible for maintaining all vegetation placed by the City adjacent to a public walkway, sidewalk, or street.
2. Any growth of noxious weeds or toxic vegetation shall be subject to ~~c~~Chapter [16-750](#) WAC as currently adopted and hereafter amended.

B. Buildings, Structures, Fences. Buildings or portions thereof which are deemed dangerous or unfit pursuant to the SVMC (including all building and property maintenance codes and regulations as currently adopted and hereafter amended).

C. Sidewalks.

1. Any protrusion, awning, or overhang that inhibits or obstructs use of a public walkway or sidewalk.
2. Any object, construction, or damage that inhibits or obstructs the surface use of a public walkway or sidewalk.
3. Accumulations of dirt or debris not removed from a public sidewalk.

D. Accumulations of Materials, Garbage, Recyclables, Furniture, Machinery.

1. Building and Construction Materials. Any accumulation, stack, or pile of building or construction materials, including but not limited to metal, wood, wire, electrical, or plumbing materials, not associated with a current, in-progress project and not in a lawful storage structure or container. This provision does not apply to a designated contractor's yard.

2. Garbage, Recyclables, Compost, and Infestations.

a. Garbage or recyclables not properly stored in a receptacle with a tight-fitting lid.

b. Any accumulation of broken or neglected items, litter, salvage materials, or junk not in an approved enclosed structure.

c. Creating or maintaining any accumulation of matter, including but not limited to foodstuffs or dead vegetation (excluding properly maintained residential compost piles).

3. Furniture, Appliances, Furnishings, and Equipment.

a. Any broken or discarded household furniture, furnishings, equipment, or appliance not in an approved enclosed structure.

b. Any enclosure which may entrap a human or an animal, including accessible refrigeration appliances that have not had the doors secured or removed.

4. Machinery and Equipment. Any broken or inoperable accumulation of, or part of, machinery or equipment not in an approved enclosed structure. SVMC [7.05.040\(D\)\(4\)](#) shall include such machinery and equipment as boats, jet-skis, snowmobiles, aircraft, and the like, but shall not include junk vehicles, which are regulated pursuant to SVMC [7.05.040\(N\)](#).

E. Fire Hazards. Any stack or accumulation of newspapers, dead vegetation (excluding properly maintained compost piles), overgrown vegetation, cardboard, or any other paper, cloth, or wood products left in a manner that poses a substantial risk of combustion or the spread of fire, as determined by the fire marshal.

F. Toxic or Caustic Substances. Improper storage or keeping of any toxic, flammable, or caustic substances or materials.

G. Smoke, Soot, or Odors. Allowing the escape or emission of any harmful smoke, soot, fumes, gases, or odors which are offensive or harmful to a reasonable person.

H. Bodies of Water.

1. All stagnant, pooled water in which mosquitoes, flies, or other insects may multiply, excluding any City-approved structure related to storm drainage systems.

2. The polluting of any waterway, well, or body of water which is not subject to the jurisdiction of another federal, state, county, special purpose district or city agency.

I. Holes. Any excavated or naturally occurring uncovered holes which are not marked, guarded, or otherwise secured, and which constitute a concealed danger.

J. Attractive Nuisances. Any accessible nuisance which is attractive to children including, but not limited to, unattended machinery or equipment, unsecured abandoned or vacant buildings, open and unattended vehicle trunks, or other unguarded conditions or situations that could injure or trap a child.

K. Noise.

1. Any noise or sound that, originating within a residential zone, intrudes into the property of another person that exceeds the maximum permissible noise levels pursuant to [Chapter 173-60 WAC](#), as currently adopted and hereafter amended. Such noise or sound may include, but is not limited to, noise or sound created by use of a radio, television set, musical instrument, sound amplifier, or other device capable of producing or reproducing noise or sound; or in connection with the starting, operation, repair, rebuilding, or testing of any vehicle, off-highway machinery or equipment, or internal combustion engine.

2. The following shall be exempt from the provisions of [SVMC 7.05.040\(K\)\(1\)](#):

a. Normal use of public rights-of-way;

b. Sounds created by motor vehicles when regulated by [Chapter 173-62 WAC](#);

c. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations;

d. Sounds created by surface carriers engaged in commerce or passenger travel by railroad;

e. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, or carillons;

f. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible;

g. Sounds created by emergency equipment and work necessary in the interest of law enforcement or for health, safety or welfare of the community;

h. Sounds originating from officially sanctioned parades and other public events;

i. Sounds created by watercraft, except to the extent that they are regulated by other City or state regulations;

j. Sounds created by motor vehicles licensed or unlicensed when operated off public highways, except when such sounds are made in or adjacent to residential property where human beings reside or sleep;

k. Sounds originating from existing natural gas transmission and distribution facilities;

l. Sounds created in conjunction with public work projects or public work maintenance operations executed at the cost of the federal government, state or municipality;



- m. Sounds created in conjunction with the collection of solid waste;
- n. Sounds created in conjunction with military operations or training;
- o. Sounds originating from organized activities occurring in public parks, playgrounds, gymnasiums, swimming pools, schools, and other public facilities and public recreational facilities during hours of operation;
- p. Sounds originating from agricultural activities.

3. The following shall be exempt from provisions of SVMC [7.05.040\(K\)\(1\)](#) between the hours of 7:00 a.m. and 10:00 p.m.:

- a. Sounds originating from residential property relating to temporary projects for the repair or maintenance of homes, grounds, and appurtenances;
- b. Sounds created by the discharge of firearms on authorized shooting ranges;
- c. Sounds created by blasting;
- d. Sounds created by aircraft engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance shall be conducted at remote sites whenever possible;
- e. Sounds created by the installation or repair of essential utility services.

4. The following shall be exempt from the provisions of SVMC [7.05.040\(K\)\(1\)](#) between the hours of 7:00 a.m. and 10:00 p.m., or when conducted beyond 1,000 feet of any residence where human beings reside and sleep at any hour:

- a. Sounds originating from temporary construction sites as a result of construction activity;
- b. Sounds originating from the quarrying, blasting and mining of minerals or materials, including, but not limited to, sand, gravel, rock and clay, as well as the primary reduction and processing of minerals or materials for concrete batching, asphalt mixing and rock crushers;
- c. Sounds originating from uses on properties which have been specifically conditioned to meet certain noise standards by an appropriate City hearing body.

L. Dust. Any disturbance of any land area, or permitting the same, without taking affirmative measures to suppress and minimize the blowing and scattering of dust, which unreasonably interferes with the peace, comfort, or repose of a reasonable person. This provision does not include permitted agricultural activities.

M. Yard Sales. The holding or permitting of either:

- 1. A yard sale on the same lot for (a) more than seven consecutive days; (b) more than two consecutive weekends; or
- 2. More than three separate yard sale events in one calendar year.

The prohibition under this Section SVMC [7.05.040\(M\)](#) shall only apply to dwellings, including but not limited to single family, multifamily, and duplex dwellings.

N. Junk Vehicles. All junk vehicles, or parts thereof, placed, stored, or permitted to be located on private property within the City limits. SVMC [7.05.040\(N\)](#) does not apply to:

1. Any vehicle or part thereof that is completely enclosed within a lawful structure so that it is not visible from the street or other public or private property;
2. Any vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer, and the private property is fenced pursuant to RCW [46.80.130](#);
3. A junk vehicle does not include a vehicle which is in the process of being repaired, as evidenced by the good faith efforts of the vehicle owner. This exception shall include having up to one “parts” vehicle, from which parts are being salvaged concurrent with the repair process for the vehicle being excepted from compliance in this section. Good faith efforts of repair may include producing invoices showing work or parts purchased for repair or renovation within 30 days prior to issuance of the notice of violation, or a declaration under penalty of perjury that the vehicle is in the process of being repaired and has been worked on within 30 days prior to issuance of the notice of violation. This exception allows up to 60 days for good faith repair. Upon good cause shown, the city manager or designee shall have the discretion to grant one additional 60-day exception period pursuant to SVMC [7.05.040](#)(N). Under no circumstance shall any good faith efforts of repair extend for more than 120 days, after which time this exception shall no longer apply. This exception shall apply to one vehicle and one parts vehicle per parcel of land per calendar year;
4. There shall be allowed as exceptions to SVMC [7.05.040](#)(N) up to two junk vehicles in R-1, R-2, and R-3 zones, so long as they are completely sight-screened by maintained landscaping, a maintained landscaped berm, or fencing, as allowed pursuant to any currently adopted SVMC landscaping, berm, or fencing requirements.

O. Graffiti. Any graffiti on public or private property.

P. Development Code Violations. Any violation pursuant to SVMC Titles [19](#), [20](#), [21](#), [22](#), [23](#), [24](#), and/or [25](#).

#### **7.05.045 Chronic nuisances.**

A. No person, firm, or entity shall erect, contrive, cause, continue, maintain, or permit to exist ~~any chronic nuisance~~ [a chronic nuisance property](#) within the City including on the property of any person, firm, or entity or upon any public rights-of-way abutting a person’s, firm’s, or entity’s property. ~~A parcel or lot of real property, a building, including but not limited to the structure or any separate part of portion thereof, whether permanent or not, or the ground itself, a unit within a building, or a mobile home, manufactured home, or recreational vehicle (collectively referred to as “property”) shall constitute a chronic nuisance when any of the following conditions occur:~~

~~1. During any continuous 12-month period, the property in question:~~

~~a. A final determination has been made by the City that conditions on the property constitute a nuisance pursuant to Chapters 7.05 and 17.100 SVMC; and~~

~~b. Has four or more occurrences of ongoing criminal activity related to the premises; or~~

~~2. During any 12-month period, the property in question has five or more occurrences of ongoing criminal activity related to the premises.~~

B. A person in charge who receives a notice and order pursuant to chapter 17.100 SVMC for chronic nuisance must, within 10 days, contact the code enforcement officer who issued the notice and order to establish a plan of action to eliminate the conditions, behaviors, and activities which constitute nuisance activities at the property.

~~BC.~~ Defenses. It shall be a defense against a declaration of chronic nuisance if the person alleged to be responsible for the nuisance (1) affirmatively engages in reasonable and ongoing efforts to remedy the nuisance ~~and/or ongoing criminal activities~~; and (2) is not the perpetrator nor allows the perpetration of the nuisance ~~or ongoing criminal activities~~.

**Section 2.** Amendment. Chapter 17.100 of the Spokane Valley Municipal Code is hereby amended as follows. Any section of Chapter 17.100 SVMC not identified herein shall remain unchanged.

**17.100.325 Abatement – Chronic nuisances.**

A. Chronic Nuisance Judicial Abatement Order. The City may seek a judicial abatement order from Spokane County superior court to abate a ~~condition property~~ deemed a chronic nuisance property pursuant to SVMC 7.05.045 where other methods of remedial action have failed to produce compliance. ~~This abatement order, in addition to the remedies outlined in the remainder of Chapter 17.100 SVMC, may seek abatement of the chronic nuisance as follows:~~ If the superior court determines the property to be a chronic nuisance property pursuant to SVMC 7.05.045, the court may:

1. Order the person in charge to immediately abate the nuisance activities and ongoing criminal activity related to the property;

2. 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;

3. Issue a warrant of abatement ordering the City to take all necessary steps to abate, deter, and prevent the resumption of nuisance activities, which may include but is not limited to, the immediate:

a. ~~Vacation of the premises~~:-

b. Removal of all personal property subject to seizure and forfeiture pursuant to RCW 69.50.505 or RCW 10.105.010 from the property and direct their disposition pursuant to the forfeiture provisions of RCW 69.50.505 or RCW 10.105.010, respectively;

b.c. Closure of the property against its use for any purpose, and for keeping it closed for a period of up to one year unless released sooner pursuant to chapter 17.100 SVMC;

e.d. Removal of garbage, junk vehicles, and any other prohibited nuisance under SVMC 7.05.040 from the property; and

e. Safety inspection by Code Enforcement, Building Official, Fire Department, or any other government agency.

4. Any other further relief deemed appropriate by the court.

B. In any action filed, the City shall have the burden of showing by a preponderance of evidence that the property is a chronic nuisance property. Police reports, official City reports, affidavits, evidence of a property's general reputation, and the reputation of persons residing or frequenting the property shall be admissible and may be offered as evidence of chronic nuisance. The failure to prosecute an individual, or the fact no one has been convicted of criminal activity, is not a defense to a chronic nuisance action. ~~3. State that while the order of abatement remains in effect, the property, building, or unit(s) within a building shall remain in the custody of the court.~~

C. Upon the finding by the superior court that a property is a chronic nuisance property, the person in charge is subject to the suspension or revocation of a business license or other license issued by the City and required at such property, including but not limited to licenses issued pursuant to Title 5 SVMC.

D. The superior court shall retain jurisdiction during any period of closure or abatement of the property.

E. The City shall file a formal lis pendens notice when an action for abatement of chronic nuisance is filed in the superior court.

BF. The City may seek to recover the costs of abatement pursuant to Cchapter 17.100 SVMC.

G. The provisions of this section (SVMC 17.100.325) shall apply retroactively to the greatest extent allowed under applicable law.

**Section 3.** 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 4.** 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 of Spokane Valley as provided by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**ATTEST:**

\_\_\_\_\_  
Pam Haley, Mayor

\_\_\_\_\_  
Christine Bainbridge, City Clerk

**Approved As To Form:**

\_\_\_\_\_  
Office of the City Attorney

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_