

ORDINANCE No.

116349

COUNCIL BILL No.

109280

The City

AN ORDINANCE relating to the Seattle Municipal Code, amending Title 10 by adding a new Chapter 10.09 thereto to define a public nuisance, as permitted by RCW 35.22.280(30) which gives any City of the first class the power to declare what shall be a public nuisance, and to abate the same and to impose fines upon parties who may create, continue, or suffer public nuisances to exist, and prescribing remedies therefor.

Honorable President:

Your Committee on

to which was referred the within report that we have considered the

CD

Introduced:	By:
	PACIER
Referred:	To:
	Public Safety
Referred:	To:
Referred:	To:
Reported:	Second Reading:
SEP 21 1992	SEP 24 1992
Third Reading:	Signed:
SEP 21 1992	SEP 24 1992
Presented to Mayor:	Approved:
SEP 23 1992	SEP 30 1992
Returned to City Clerk:	Published:
OCT 1 1992	
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Fall Council

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The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

able President:

omitted on

h was referred the within Council Bill No.

hat we have considered the same and respectfully recommend that the same:

Full Council Vote 7-1

Inc. public mission

Committee Chair

ORDINANCE 116349

AN ORDINANCE relating to the Seattle Municipal Code, amending Title 10 by adding a new Chapter 10.09 thereto to define a public nuisance, as permitted by RCW 35.22.280(30) which gives any City of the first class the power to declare what shall be a public nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer public nuisances to exist, and prescribing remedies therefor.

WHEREAS, the pervasive problems of increased violence, noise, public drunkenness, drug-trafficking and other illegal activity endanger the health, comfort, and safety of the community and are in part the result of properties which attract and encourage such behavior, thereby creating an unsafe environment, and they have become of such magnitude that they are a matter of City concern; and

WHEREAS, existing laws address mainly the criminal conduct of individuals but not the environment or premises which foster and encourage the problems; and

WHEREAS, it is the duty of the City of Seattle to preserve, promote and protect the public welfare, health and safety of all its citizens.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Title 10 of the Seattle Municipal Code is amended by adding a new Chapter 10.09 as follows:

10.09.010 Definitions.

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a public nuisance by such means, in such a manner and to such an extent as the Chief determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Chief" means the Chief of Police for the City of Seattle Police Department, or his/her designee.

D. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a City regulation.

1 E. "Emergency" means a situation which, in the opinion of
2 the Chief, requires immediate action to prevent or eliminate an
3 immediate threat to the health or safety of persons or property.

4 F. "Hearing Examiner" means the City of Seattle Hearing
5 Examiner and the office thereof established pursuant to Seattle
6 Municipal Code, Chapter 3.02.

7 G. "Owner" means any person who, alone or with others, has
8 title or interest in any building or premises, with or without
9 accompanying actual possession thereof. For the purpose of giving
10 notice, the term "owner" also includes any person in physical
11 possession.

12 H. "Person" means any individual, partnership, corporation,
13 trust, unincorporated or incorporated association, marital
14 community, joint venture, governmental entity, or other entity or
15 group of persons however organized.

16 I. "Person responsible for the public nuisance" means the
17 property owner and any person who causes or permits a public
18 nuisance to occur or remain upon property in the City, and
19 includes but is not limited to the owner(s), lessors(s),
20 tenant(s), or other person(s) entitled to control, use and/or
21 occupy property where a public nuisance occurs.

22 J. "Premises" means a plot of ground, whether occupied or
23 not.

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25 premises on which the building or structure is located.

26 L. "Public place" means an area generally visible to public
27 view and includes alleys, bridges, driveways, parking lots, parks,
28 plazas, sidewalks, streets, and buildings open to the general
29 public, including those that serve food or drink or provide
30 entertainment, and the doorways and entrances to buildings or

1 dwellings and the grounds enclosing them.

2 M. "Unreasonable noise" means a noise as defined in Seattle
3 Municipal Code Section 25.08.500.

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5 **10.09.020 Enforcement.**

6 This chapter shall be enforced and administered by the Chief
7 of Police. Upon request by the Chief of Police, all other City
8 departments and divisions are authorized to assist in enforcing
9 this Chapter.

10
11 **10.09.030 Public nuisance defined.**

12 For purposes of this chapter a public nuisance is a condition
13 which wrongfully annoys, injures, or endangers the comfort,
14 repose, health or safety of others, or unlawfully interferes with,
15 obstructs or tends to obstruct, or render dangerous for passage,
16 any public park, square, street or highway, or any other public
17 place; or in any way renders other persons insecure in life, or in
18 the use of property, and which affects equally the rights of an
19 entire community or neighborhood, although the extent of damage
20 may be unequal.

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22 **10.09.040 Public nuisances enumerated.**

23 A. Public nuisances shall include, but not be limited to
24 the following:

25 1. Every property or premises not licensed under state
26 law where any intoxicating liquors are kept for unlawful use, sale
27 or distribution; or

28 2. Every property or premises where there exists an
29 environment which causes, encourages or allows individuals or
30 groups of individuals to commit one or more of the following acts

1 on the property, premises or adjacent public place, including but
2 not limited to:

- 3 a. Illegally consume intoxicating liquor;
- 4 b. Publicly urinate or defecate;
- 5 c. By physical action, intentionally cause or
6 attempt to cause another person reasonably to fear imminent bodily
7 injury or the commission of a criminal act upon their person or
8 upon property in their immediate possession;
- 9 d. Engage in acts of violence, including fighting
10 amongst themselves;
- 11 e. Discharge a firearm or explosive in violation
12 of Seattle Municipal Code Section 12A.28.050;
- 13 f. Create unreasonable noise which disturbs
14 others;
- 15 g. Intentionally obstruct pedestrian or vehicular
16 traffic; or
- 17 h. Solicit acts of prostitution.

18 B. If the Chief finds a public nuisance to exist, the Chief
19 shall order it abated in accordance with this Chapter.

21 **10.09.050 Authorized act not a public nuisance.**

22 No act which is done or maintained under the express
23 authority of a statute or ordinance can be deemed a public
24 nuisance.

26 **10.09.060 Successive owners liable.**

27 Every successive owner of property or premises who neglects
28 to abate a continuing public nuisance upon or in the use of such
29 property caused by a former owner is liable therefor in the same
30 manner as the one who first created it.

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10.09.070 Abatement does not preclude action for damages.

The abatement of a public nuisance does not prejudice the right of any person to recover damages for its past existence.

10.09.080 Voluntary correction.

A. This section applies whenever the Chief determines that a public nuisance is occurring.

B. The Chief shall pursue a reasonable attempt to secure voluntary correction by contacting the person responsible for the public nuisance where possible, explaining the public nuisance and requesting correction.

C. A voluntary correction agreement may be entered into between the person responsible for the public nuisance and the City, acting through the Chief.

1. The voluntary correction agreement is a contract between the City and the person responsible for the public nuisance under which such person agrees to abate the public nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

a. The name and address of the person responsible for the public nuisance; and

b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the public nuisance is occurring; and

c. A description of the public nuisance; and

d. The necessary corrective action to be taken, and a date or time by which correction must be completed; and

e. An agreement by the person responsible for the

1 public nuisance that the City may inspect the premises as may be
2 necessary to determine compliance with the voluntary correction
3 agreement; and

4 f. An agreement by the person responsible for the
5 public nuisance that the City may abate the public nuisance and
6 recover its costs and expenses and a monetary penalty pursuant to
7 this chapter from the person responsible for the public nuisance
8 if terms of the voluntary correction agreement are not met; and

9 g. An agreement that by entering into the
10 voluntary correction agreement the person responsible for the
11 public nuisance waives the right to an administrative appeal of
12 the public nuisance and/or the required corrective action.

13 2. The person responsible for the public nuisance
14 waives the right to an administrative appeal of the public
15 nuisance and the required corrective action upon entering into a
16 voluntary correction agreement.

17 3. The City shall have the right to inspect the
18 subject property to determine compliance with the terms of the
19 voluntary correction agreement.

20 4. An extension of the time limit for correction or a
21 modification of the required corrective action may be granted by
22 the Chief if the person responsible for the public nuisance has
23 shown due diligence and/or substantial progress in abating the
24 public nuisance but unforeseen circumstances render abatement
25 under the original conditions unattainable.

26 5. The City may abate the public nuisance in
27 accordance with Section 10.09.110 if the terms of the voluntary
28 correction agreement are not met.

29 6. If the terms of the voluntary correction agreement
30 are not met the person responsible for the public nuisance shall

1 be assessed a monetary penalty commencing on the date set for
2 correction and thereafter, in accordance with Section
3 10.09.090(E), plus all costs and expenses of abatement, as set
4 forth in Section 10.09.110(D).

5
6 **10.09.090 Notice of civil violation.**

7 A. When the Chief determines that a public nuisance is
8 occurring, and is unable to secure voluntary correction, pursuant
9 to Section 10.09.080, the Chief may issue a notice of abatement to
10 the person responsible for the public nuisance. The Chief may
11 issue a notice of abatement without having attempted to secure
12 voluntary correction as provided in Section 10.09.080 under the
13 following circumstances:

- 14 1. When an emergency exists; or
15 2. When the violation creates a situation or condition
16 which cannot be corrected; or
17 3. When the person knows or reasonably should have
18 known that a public nuisance is occurring.

19 B. The notice of abatement shall include the following:

- 20 1. The name and address of the person responsible for
21 the public nuisance; and
22 2. The street address or description sufficient for
23 identification of the building, structure, premises, or land upon
24 or within which the public nuisance is occurring; and
25 3. A description of the public nuisance; and
26 4. The required corrective action and a date and time
27 by which the correction must be completed after which the City may
28 abate the public nuisance in accordance with Section 10.09.110 or
29 by order of the Hearing Examiner; and
30 5. Notwithstanding Seattle Municipal Code Section

1 3.02.090(A), the date, time and location of an appeal hearing
2 before the Hearing Examiner shall be scheduled not less than ten
3 (10) and no more than thirty (30) days from the date the notice of
4 abatement is issued; and

5 6. A statement indicating that the hearing will be
6 canceled and no monetary penalty will be assessed if the Chief
7 approves the completed, required corrective action at least
8 forty-eight hours prior to the hearing; and

9 7. A statement that the costs and expenses of
10 abatement incurred by the City pursuant to Section 10.09.110(D)
11 and a monetary penalty as specified in Section 10.09.090(E) may be
12 assessed against the person to whom the notice of abatement is
13 issued as specified and ordered by the Hearing Examiner.

14 C. The Chief shall serve the notice of abatement upon the
15 person to whom it is issued, either personally or by mailing,
16 certified, return receipt requested, a copy of the notice of
17 abatement to such person at his/her last known address. If the
18 person to whom the notice is issued cannot after due diligence be
19 personally served within King County and if an address for mailed
20 service cannot after due diligence be ascertained, notice shall be
21 served by posting a copy of the notice of abatement conspicuously
22 on the affected property or structure. Proof of service shall be
23 made by a written declaration under penalty of perjury executed by
24 the person effecting the service, declaring the time and date of
25 service, the manner by which the service was made, and if by
26 posting the facts showing that due diligence was used in
27 attempting to serve the person personally or by mail.

28 D. No extension of the time specified in the notice of
29 abatement for correction of the public nuisance may be granted,
30 except by order of the Hearing Examiner.

1 E. The monetary penalty for each day the public nuisance is
2 permitted to continue or portion thereof shall be as follows:

- 3 1. First day one hundred dollars;
- 4 2. Second day two hundred dollars;
- 5 3. Third day three hundred dollars;
- 6 4. Fourth day four hundred dollars;
- 7 5. Each additional day beyond four days, five hundred
8 dollars per day.

9 F. Payment of a monetary penalty pursuant to this chapter
10 does not relieve the person to whom the notice of abatement was
11 issued of the duty to correct the public nuisance.

12 G. The monetary penalty constitutes a personal obligation
13 of the person to whom the notice of abatement is issued. Any
14 monetary penalty assessed must be paid to the City within ten (10)
15 calendar days from the date of mailing of the Hearing Examiner's
16 decision and order or a notice from the City that penalties are
17 due. The City Attorney or his/her designee is authorized to take
18 appropriate action to collect the monetary penalty, plus
19 reasonable attorneys' fees and costs incurred in collecting said
20 monetary penalty.

21

22 **10.09.100 Hearing before the Hearing Examiner.**

23 A. Notwithstanding Seattle Municipal Code Section
24 3.02.090(A), a person to whom a notice of abatement is issued
25 shall receive notice of the date, time and location of the hearing
26 before the Hearing Examiner, which hearing shall be scheduled not
27 less than ten (10) and no more than thirty (30) calendar days from
28 the date the notice of abatement is issued.

29 B. The hearing will be canceled and no monetary penalty
30 will be assessed if the Chief approves the completed required

1 corrective action at least forty-eight (48) hours prior to the
2 scheduled hearing.

3 C. The Hearing Examiner shall conduct a hearing on the
4 civil violation pursuant to the rules of procedure of the Hearing
5 Examiner. The Chief and the person to whom the notice of
6 abatement was issued are parties to the hearing and each may call
7 witnesses. The City shall have the burden of proof to demonstrate
8 by a preponderance of the evidence that a public nuisance is
9 occurring and that the required corrective action is reasonable.
10 The determination of the Chief as to the need for the required
11 corrective action shall be accorded substantial weight by the
12 Hearing Examiner in determining the reasonableness of the
13 corrective action.

14 D. The Hearing Examiner shall determine whether the City
15 has established by a preponderance of the evidence that a public
16 nuisance is occurring and that the required correction is
17 reasonable and shall affirm, vacate, or modify the City's decision
18 regarding the alleged public nuisance and/or the required
19 corrective action, with or without written conditions.

20 E. The Hearing Examiner shall issue a decision and order to
21 the person responsible for the public nuisance which contains the
22 following information:

23 1. The decision and order regarding the alleged public
24 nuisance, including findings of fact and conclusions based thereon
25 in support of the decision and order;

26 2. The required corrective action;

27 3. The date and time by which the correction must be
28 completed;

29 4. The monetary penalties assessed based on the
30 criteria in Section 10.09.100(D)(3);

1 5. The date and time after which the City may proceed
2 with abatement of the public nuisance if the required correction
3 is not completed.

4 F. Monetary penalties assessed by the Hearing Examiner
5 shall be in accordance with the monetary penalty schedule in
6 Section 10.09.090(E), and the Hearing Examiner shall have the
7 following options in assessing monetary penalties:

8 1. Assess monetary penalties beginning on the date the
9 notice of abatement was issued and thereafter; or

10 2. Assess monetary penalties beginning on the
11 correction date set by the Chief or an alternate correction date
12 set by the Hearing Examiner and thereafter, or

13 3. Assess no monetary penalties.

14 G. In determining the monetary penalty assessment, the
15 Hearing Examiner shall consider the following factors:

16 1. Whether the person responded to the Chief's
17 attempts to contact the person and cooperated with efforts to
18 correct the public nuisance;

19 2. Whether the person failed to appear at the hearing;

20 3. Whether the person showed due diligence and/or
21 substantial progress in correcting the public nuisance; and

22 4. Any other relevant factors.

23 H. The Hearing Examiner shall mail a copy of the decision
24 and order to the person to whom the notice of abatement was issued
25 and to the Chief within ten (10) working days of the close of the
26 hearing record. If the person to whom the decision and order is
27 issued cannot after due diligence be personally served within King
28 County and if an address for mailing cannot after due diligence be
29 ascertained, a copy of the decision and order shall be posted
30 conspicuously on the affected property or structure.

1 I. If the person to whom the notice of abatement was issued
2 fails to appear at the scheduled hearing, the Hearing Examiner
3 may, upon an offer of proof made by the City, enter a decision and
4 order finding that the public nuisance is occurring and assessing
5 the appropriate monetary penalty. The City will carry out the
6 Hearing Examiner's decision and order and recover all related
7 expenses, plus the cost of the hearing and any monetary penalty
8 from that person.

9 J. If the person responsible for the public nuisance fails
10 to correct the public nuisance as ordered by the Hearing Examiner,
11 monetary penalties shall automatically accrue in the amounts set
12 forth in the monetary penalty schedule in Section 10.09.090(E).

13 K. An appeal of the decision and order of the Hearing
14 Examiner must be filed with Superior Court within fifteen (15)
15 calendar days from the date the Hearing Examiner's decision and
16 order was mailed to the person to whom the notice of abatement was
17 issued, or was posted on the affected property pursuant to section
18 10.09.100(D)(4), or is thereafter barred.

19
20 **10.09.110 Abatement by the City.**

21 A. The City may abate a public nuisance when:

22 1. The terms of voluntary correction agreement
23 pursuant to Section 10.09.080 have not been met; or

24 2. A notice of abatement has been issued pursuant to
25 Section 10.09.090 and a decision and order has been issued
26 pursuant to Section 10.09.100 and the required correction has not
27 been completed by the date specified in the Hearing Examiner's
28 decision and order; or

29 3. The condition is subject to summary abatement as
30 provided for in Section 10.09.110(B).

1 B. Whenever a public nuisance is occurring which
2 constitutes an immediate and emergent threat to the public health,
3 safety or welfare or to the environment, the City may summarily
4 and without prior notice abate the condition. Notice of such
5 abatement, including the reason for it shall be given to the
6 person responsible for the public nuisance as soon as reasonably
7 possible after the abatement.

8 C. Using any lawful means, the City may enter upon the
9 subject property and may remove or correct the condition which is
10 subject to abatement. The City may seek such judicial process as
11 it deems necessary to effect the removal or correction of such
12 condition.

13 D. The costs, including incidental expenses, of correcting
14 the violation shall be billed to the person responsible for the
15 violation and/or the owner, lessor, tenant or other person
16 entitled to control, use and/or occupy the property and shall
17 become due and payable to the City within ten (10) calendar days.
18 The term "incidental expenses" includes but is not limited to
19 personnel costs, both direct and indirect, including attorneys'
20 fees and costs; costs incurred in documenting the violation;
21 hauling, storage and disposal expenses; and actual expenses and
22 costs of the City in preparing notices, specifications and
23 contracts, and in accomplishing and/or contracting and inspecting
24 the work; and the costs of any required printing and mailing.

25 E. Any person who knowingly obstructs, impedes, or
26 interferes with the City or its agents, or with the person
27 responsible for the public nuisance in the performance of duties
28 imposed by this chapter, or a decision and order issued by the
29 Hearing Examiner or an agreement between the City and the person
30 responsible for the public nuisance, is guilty of a misdemeanor.

1 **10.09.120 Severability**

2 The provisions of this ordinance are declared to be separate
3 and severable. The invalidity of any clause, sentence, paragraph
4 subdivision, section or portion of this ordinance, or the
5 invalidity of the application thereof to any person or
6 circumstance shall not affect the validity of the remainder of
7 this ordinance, or the validity of its application to other
8 persons or circumstances.

9 This ordinance shall take effect and be in force thirty (30)
10 days from and after its passage and approval, if approved by the
11 Mayor; otherwise it shall take effect at the time it shall become
12 law under the provisions of the City Charter.

13 Passed by the City Council the 21 day of Sept., 1992,
14 and signed by me in open session in authentication of its passage
15 this 21 day of Sept., 1992.

16 Geo. J. Benson
17 President of the City Council

18 Approved by me this 30th day of Sept., 1992.

19 Norman Bruce
20 Mayor

21 Filed by me this 1st day of Oct., 1992.

22 ATTEST: Rupprecht
23 City Comptroller and City Clerk

24 By: Marquet Carter
25 Deputy

26 (SEAL)

27 Published _____
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7 determines that a public nuisance is occurring.

8 B. General. The Chief shall pursue a reasonable attempt to
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11 public nuisance waives the right to an administrative appeal of
12 the public nuisance and/or the required corrective action.

13 2. Right to a Hearing Waived. The person responsible
14 for the public nuisance waives the right to an administrative
15 appeal of the public nuisance and the required corrective action
16 upon entering into a voluntary correction agreement.

17 3. City's Right to Inspect. The City shall have the
18 right to inspect the subject property to determine compliance with
19 the terms of the voluntary correction agreement.

20 4. Extension--Modification. An extension of the time
21 limit for correction or a modification of the required corrective
22 action may be granted by the Chief if the person responsible for
23 the public nuisance has shown due diligence and/or substantial
24 progress in abating the public nuisance but unforeseen
25 circumstances render abatement under the original conditions
26 unattainable.

27 5. Abatement by the City. The City may abate the
28 public nuisance in accordance with Section 10.09.110 if the terms
29 of the voluntary correction agreement are not met.

30 6. Collection of Costs. If the terms of the voluntary

1 correction agreement are not met the person responsible for the
2 public nuisance shall be assessed a monetary penalty commencing on
3 the date set for correction and thereafter, in accordance with
4 Section 10.09.090(E), plus all costs and expenses of abatement, as
5 set forth in Section 10.09.110(D).

6
7 **10.09.090 Notice of civil violation.**

8 A. Issuance.

9 1. When the Chief determines that a public nuisance is
10 occurring, and is unable to secure voluntary correction, pursuant
11 to Section 10.09.080, the Chief may issue a notice of abatement to
12 the person responsible for the public nuisance.

13 2. The Chief may issue a notice of abatement without
14 having attempted to secure voluntary correction as provided in
15 Section 10.09.080 under the following circumstances:

- 16 a. When an emergency exists; or
- 17 b. When the violation creates a situation or
18 condition which cannot be corrected; or
- 19 c. When the person knows or reasonably should
20 have known that a public nuisance exists.

21 B. Content. The notice of abatement shall include the
22 following:

- 23 1. The name and address of the person responsible for
24 the public nuisance; and
- 25 2. The street address or description sufficient for
26 identification of the building, structure, premises, or land upon
27 or within which the public nuisance is occurring; and
- 28 3. A description of the public nuisance; and
- 29 4. The required corrective action and a date and time
30 by which the correction must be completed after which the City may

1 abate the public nuisance in accordance with Section 10.09.110 or
2 by order of the Hearing Examiner; and

3 5. Notwithstanding Seattle Municipal Code Section
4 3.02.090(A), the date, time and location of an appeal hearing
5 before the Hearing Examiner shall be scheduled not less than ten
6 (10) and no more than thirty (30) days from the date the notice of
7 abatement is issued; and

8 6. A statement indicating that the hearing will be
9 canceled and no monetary penalty will be assessed if the Chief
10 approves the completed, required corrective action at least
11 forty-eight hours prior to the hearing; and

12 7. A statement that the costs and expenses of
13 abatement incurred by the City pursuant to Section 10.09.110(D)
14 and a monetary penalty as specified in Section 10.09.090(E) may be
15 assessed against the person to whom the notice of abatement is
16 issued as specified and ordered by the Hearing Examiner.

17 C. Service of Notice. The Chief shall serve the notice of
18 abatement upon the person to whom it is issued, either personally
19 or by mailing, certified, return receipt requested, a copy of the
20 notice of abatement to such person at his/her last known address.
21 If the person to whom the notice is issued cannot after due
22 diligence be personally served within King County and if an
23 address for mailed service cannot after due diligence be
24 ascertained, notice shall be served by posting a copy of the
25 notice of abatement conspicuously on the affected property or
26 structure. Proof of service shall be made by a written
27 declaration under penalty of perjury executed by the person
28 effecting the service, declaring the time and date of service, the
29 manner by which the service was made, and if by posting the facts
30 showing that due diligence was used in attempting to serve the

1 person personally or by mail.

2 D. Extension. No extension of the time specified in the
3 notice of abatement for correction of the public nuisance may be
4 granted, except by order of the Hearing Examiner.

5 E. Monetary Penalty. The monetary penalty for each day the
6 public nuisance is permitted to continue or portion thereof shall
7 be as follows:

- 8 1. First day one hundred dollars;
- 9 2. Second day two hundred dollars;
- 10 3. Third day three hundred dollars;
- 11 4. Fourth day four hundred dollars;
- 12 5. Each additional day beyond four days, five hundred
13 dollars per day.

14 F. Continued Duty to Correct. Payment of a monetary
15 penalty pursuant to this chapter does not relieve the person to
16 whom the notice of abatement was issued of the duty to correct the
17 public nuisance.

18 G. Collection of monetary penalty.

19 1. The monetary penalty constitutes a personal
20 obligation of the person to whom the notice of abatement is
21 issued. Any monetary penalty assessed must be paid to the City
22 within ten (10) calendar days from the date of mailing of the
23 Hearing Examiner's decision and order or a notice from the City
24 that penalties are due.

25 2. The City Attorney or his/her designee is authorized
26 to take appropriate action to collect the monetary penalty, plus
27 reasonable attorneys' fees and costs incurred in collecting said
28 monetary penalty.

29
30

1 **10.09.100 Hearing before the Hearing Examiner.**

2 A. Notice. Notwithstanding Seattle Municipal Code Section
3 3.02.090(A), a person to whom a notice of abatement is issued
4 shall receive notice of the date, time and location of the hearing
5 before the Hearing Examiner, which hearing shall be scheduled not
6 less than ten (10) and no more than thirty (30) calendar days from
7 the date the notice of abatement is issued.

8 B. Prior Correction of Public Nuisance. The hearing will
9 be canceled and no monetary penalty will be assessed if the Chief
10 approves the completed required corrective action at least
11 forty-eight (48) hours prior to the scheduled hearing.

12 C. Procedure. The Hearing Examiner shall conduct a hearing
13 on the civil violation pursuant to the rules of procedure of the
14 Hearing Examiner. The Chief and the person to whom the notice of
15 abatement was issued are parties to the hearing and each may call
16 witnesses. The City shall have the burden of proof to demonstrate
17 by a preponderance of the evidence that a public nuisance is
18 occurring and that the required corrective action is reasonable.
19 The determination of the Chief as to the need for the required
20 corrective action shall be accorded substantial weight by the
21 Hearing Examiner in determining the reasonableness of the
22 corrective action.

23 D. Decision and Order of the Hearing Examiner.

24 1. The Hearing Examiner shall determine whether the
25 City has established by a preponderance of the evidence that a
26 public nuisance exists and that the required correction is
27 reasonable and shall affirm, vacate, or modify the City's decision
28 regarding the alleged public nuisance and/or the required
29 corrective action, with or without written conditions.

30 2. The Hearing Examiner shall issue a decision and

1 order to the person responsible for the public nuisance which
2 contains the following information:

- 3 a. The decision and order regarding the alleged
4 public nuisance, including findings of fact and conclusions based
5 thereon in support of the decision and order;
- 6 b. The required corrective action;
- 7 c. The date and time by which the correction must
8 be completed;
- 9 d. The monetary penalties assessed based on the
10 criteria in Section 10.09.100(D) (3);
- 11 e. The date and time after which the City may
12 proceed with abatement of the public nuisance if the required
13 correction is not completed.

14 3. Assessment of Monetary Penalty. Monetary penalties
15 assessed by the Hearing Examiner shall be in accordance with the
16 monetary penalty schedule in Section 10.09.090(E).

17 a. The Hearing Examiner shall have the following
18 options in assessing monetary penalties:

- 19 i. Assess monetary penalties beginning on
20 the date the notice of abatement was issued and thereafter; or
- 21 ii. Assess monetary penalties beginning on
22 the correction date set by the Chief or an alternate correction
23 date set by the Hearing Examiner and thereafter, or
- 24 iii. Assess no monetary penalties.

25 b. In determining the monetary penalty
26 assessment, the Hearing Examiner shall consider the following
27 factors:

- 28 i. Whether the person responded to staff
29 attempts to contact the person and cooperated with efforts to
30 correct the public nuisance;

1 ii. Whether the person failed to appear at
2 the hearing;

3 iii. Whether the person showed due diligence
4 and/or substantial progress in correcting the public nuisance; and

5 vi. Any other relevant factors.

6 4. Notice of Decision and Order. The Hearing Examiner
7 shall mail a copy of the decision and order to the person to whom
8 the notice of abatement was issued and to the Chief within ten
9 (10) working days of the close of the hearing record. If the
10 person to whom the decision and order is issued cannot after due
11 diligence be personally served within King County and if an
12 address for mailing cannot after due diligence be ascertained, a
13 copy of the decision and order shall be posted conspicuously on
14 the affected property or structure.

15 E. Failure to Appear. If the person to whom the notice of
16 abatement was issued fails to appear at the scheduled hearing, the
17 examiner will enter a decision and order finding that the public
18 nuisance exists and assessing the appropriate monetary penalty.
19 The City will carry out the Hearing Examiner's decision and order
20 and recover all related expenses, plus the cost of the hearing and
21 any monetary penalty from that person.

22 F. Failure to Correct Public Nuisance Pursuant to Hearing
23 Examiner's Decision and Order. If the person responsible for the
24 public nuisance fails to correct the public nuisance as ordered by
25 the Hearing Examiner, monetary penalties shall automatically
26 accrue in the amounts set forth in the monetary penalty schedule
27 in Section 10.09.090(E).

28 G. Appeal to Superior Court. An appeal of the decision and
29 order of the Hearing Examiner must be filed with Superior Court
30 within fifteen (15) calendar days from the date the Hearing

1 Examiner's decision and order was mailed to the person to whom the
2 notice of abatement was issued, or was posted on the affected
3 property pursuant to section 10.09.100(D)(4), or is thereafter
4 barred.

5
6 **10.09.110 Abatement by the City.**

7 A. The City may abate a public nuisance when:

8 1. The terms of voluntary correction agreement
9 pursuant to Section 10.09.080 have not been met; or

10 2. A notice of abatement has been issued pursuant to
11 Section 10.09.090 and a hearing has been held pursuant to Section
12 10.09.100 and the required correction has not been completed
13 by the date specified in the Hearing Examiner's decision and
14 order; or

15 3. The condition is subject to summary abatement as
16 provided for in Section 10.09.110(B).

17 B. Summary Abatement. Whenever a public nuisance exists
18 which constitutes an immediate and emergent threat to the public
19 health, safety or welfare or to the environment, the City may
20 summarily and without prior notice abate the condition. Notice of
21 such abatement, including the reason for it shall be given to the
22 person responsible for the public nuisance as soon as reasonably
23 possible after the abatement.

24 C. Authorized Action by the City. Using any lawful means,
25 the City may enter upon the subject property and may remove or
26 correct the condition which is subject to abatement. The City may
27 seek such judicial process as it deems necessary to effect the
28 removal or correction of such condition.

29 D. Recovery of Costs and Expenses. The costs, including
30 incidental expenses, of correcting the violation shall be billed

1 to the person responsible for the violation and/or the owner,
2 lessor, tenant or other person entitled to control, use and/or
3 occupy the property and shall become due and payable to the City
4 within ten (10) calendar days. The term "incidental expenses"
5 includes but is not limited to personnel costs, both direct and
6 indirect, including attorney's fees and costs; costs incurred in
7 documenting the violation; hauling, storage and disposal expenses;
8 and actual expenses and costs of the City in preparing notices,
9 specifications and contracts, and in accomplishing and/or
10 contracting and inspecting the work; and the costs of any required
11 printing and mailing.

12 E. Interference. Any person who knowingly obstructs,
13 impedes, or interferes with the City or its agents, or with the
14 person responsible for the public nuisance in the performance of
15 duties imposed by this chapter, or a decision and order issued by
16 the Hearing Examiner or an agreement between the City and the
17 person responsible for the public nuisance, is guilty of a
18 misdemeanor.

19
20 **10.09.120 Severability.**

21 The provisions of this ordinance are declared to be separate
22 and severable. The invalidity of any clause, sentence, paragraph
23 subdivision, section or portion of this ordinance, or the
24 invalidity of the application thereof to any person or
25 circumstance shall not affect the validity of the remainder of
26 this ordinance, or the validity of its application to other
27 persons or circumstances.

28 This ordinance shall take effect and be in force thirty (30)
29 days from and after its passage and approval, if approved by the
30 Mayor; otherwise it shall take effect at the time it shall become

1 law under the provisions of the City Charter.

2 Passed by the City Council the ____ day of _____, 1992,
3 and signed by me in open session in authentication of its passage
4 this ____ day of _____, 1992.

5 _____
6 President of the City Council

7 Approved by me this ____ day of _____, 1992.

8 _____
9 Mayor

10 Filed by me this ____ day of _____, 1992.

11 _____
12 ATTEST: _____
13 City Comptroller and City Clerk

14 By: _____
15 Deputy

16 (SEAL)

17 Published _____

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ORDINANCE

AN ORDINANCE relating to the Seattle Municipal Code, amending Title 10 by adding a new Chapter 10.09 thereto to define a public nuisance, as permitted by RCW 35.22.280(30) which gives any City of the first class the power to declare what shall be a public nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer public nuisances to exist, and prescribing remedies therefor.

WHEREAS, the pervasive problems of increased violence, noise, drug-trafficking and other illegal activity endanger the health, comfort, and safety of the community and are the result of properties which attract, encourage and create an unsafe environment, and have become of such magnitude that they are a matter of City concern; and

WHEREAS, existing laws address mainly the criminal conduct of individuals but not the environment or premises which foster and encourage the problems; and

WHEREAS, it is the duty of the City of Seattle to preserve, promote and protect the public welfare, health and safety of all its citizens.

BE IT ORDAINED BY THE City OF SEATTLE AS FOLLOWS:

Section 1. Title 10 of the Seattle Municipal Code is amended by adding a new Chapter 10.09 as follows:

10.09.010 Definitions.

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a public nuisance by such means, in such a manner and to such an extent as the Chief determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Chief" means the Chief of Police for the City of Seattle Police Department, or his/her designee.

D. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a City regulation.

E. "Emergency" means a situation which, in the opinion of

1 the Chief, requires immediate action to prevent or eliminate an
2 immediate threat to the health or safety of persons or property.

3 F. "Hearing Examiner" means the City of Seattle Hearing
4 Examiner and the office thereof established pursuant to Seattle
5 Municipal Code, Chapter 3.02.

6 G. "Omission" means a failure to act.

7 H. "Owner" means any person who, alone or with others, has
8 title or interest in any building, with or without accompanying
9 actual possession thereof. For the purpose of giving notice, the
10 term "owner" also includes any person in physical possession.

11 I. "Person" means any individual, partnership, corporation,
12 trust, unincorporated or incorporated association, marital
13 community, joint venture, governmental entity, or other entity or
14 group of persons however organized.

15 J. "Person responsible for the public nuisance" means the
16 property owner and any person who causes or permits a public
17 nuisance to occur or remain upon property in the City, and
18 includes but is not limited to the owner(s), lessors(s),
19 tenant(s), or other person(s) entitled to control, use and/or
20 occupy property where a public nuisance occurs.

21 K. "Premises" means a plot of ground, whether occupied or
22 not.

23 L. "Property" means any building or structure, or the
24 premises on which the building or structure is located.

25 M. "Public place" means an area generally visible to public
26 view and includes alleys, bridges, driveways, parking lots, parks,
27 plazas, sidewalks, streets, and buildings open to the general
28 public, including those that serve food or drink or provide
29 entertainment, and the doorways and entrances to buildings or
30 dwellings and the grounds enclosing them.

1 N. "Unreasonable noise" means a noise as defined in Seattle
2 Municipal Code Section 25.08.500.

3
4 **10.09.020 Enforcement.**

5 This chapter shall be enforced and administered by the Chief
6 of Police. Upon request by the Chief of Police, all other City
7 departments and divisions are authorized to assist in enforcing
8 this Chapter.

9
10 **10.09.030 Public nuisance defined.**

11 A public nuisance is a condition which wrongfully annoys,
12 injures, or endangers the comfort, repose, health or safety of
13 others, or unlawfully interferes with, obstructs or tends to
14 obstruct, or render dangerous for passage, any public park,
15 square, street or highway; or in any way renders other persons
16 insecure in life, or in the use of property, and which affects
17 equally the rights of an entire community or neighborhood,
18 although the extent of damage may be unequal.

19
20 **10.09.040 Public nuisances enumerated.**

21 A. Public nuisances shall include, but not be limited to
22 the following:

23 1. Every property not licensed under state law where
24 any intoxicating liquors are kept for unlawful use, sale or
25 distribution; or

26 2. Every property where there exists an environment
27 which causes or encourages individuals or groups of individuals to
28 commit one or more of the following acts on the
29 property or adjacent public place, including but not limited to:

30 a. Illegally consume intoxicating liquor;

- 1 b. Publicly urinate or defecate;
- 2 c. By physical action, intentionally cause or
- 3 attempt to cause another person reasonably to fear imminent bodily
- 4 injury or the commission of a criminal act upon their person or
- 5 upon property in their immediate possession;
- 6 d. Engage in acts of violence, including fighting
- 7 amongst themselves;
- 8 e. Create unreasonable noise which disturbs
- 9 others;
- 10 f. Intentionally obstruct pedestrian or vehicular
- 11 traffic; or
- 12 g. Solicit acts of prostitution; or

13 B. If the Chief finds a public nuisance to exist, the Chief
14 shall order it abated in accordance with this Chapter.

15
16 **10.09.050 Authorized act not a public nuisance.**

17 No act which is done or maintained under the express
18 authority of a statute or ordinance can be deemed a public
19 nuisance.

20
21 **10.09.060 Successive owners liable.**

22 Every successive owner of property who neglects to abate a
23 continuing public nuisance upon or in the use of such property
24 caused by a former owner is liable therefor in the same manner as
25 the one who first created it.

26
27 **10.09.070 Abatement does not preclude action for damages.**

28 The abatement of a public nuisance does not prejudice the
29 right of any person to recover damages for its past existence.

30

1 **10.09.080 Voluntary correction.**

2 A. Applicability. This section applies whenever the Chief
3 determines that a public nuisance is occurring.

4 B. General. The Chief shall pursue a reasonable attempt to
5 secure voluntary correction by contacting the person responsible
6 for the public nuisance where possible, explaining the public
7 nuisance and requesting correction.

8 C. Issuance of Voluntary Correction Agreement. A voluntary
9 correction agreement may be entered into between the person
10 responsible for the public nuisance and the City, acting through
11 the Chief.

12 1. Content. The voluntary correction agreement is a
13 contract between the City and the person responsible for the
14 public nuisance under which such person agrees to abate the public
15 nuisance within a specified time and according to specified
16 conditions. The voluntary correction agreement shall include the
17 following:

18 a. The name and address of the person responsible
19 for the public nuisance; and

20 b. The street address or a description sufficient
21 for identification of the building, structure, premises, or land
22 upon or within which the public nuisance is occurring; and

23 c. A description of the public nuisance; and

24 d. The necessary corrective action to be taken,
25 and a date or time by which correction must be completed; and

26 e. An agreement by the person responsible for the
27 public nuisance that the City may inspect the premises as may be
28 necessary to determine compliance with the voluntary correction
29 agreement; and

30 f. An agreement by the person responsible for the

1 public nuisance that the City may abate the public nuisance and
2 recover its costs and expenses and a monetary penalty pursuant to
3 this chapter from the person responsible for the public nuisance
4 if terms of the voluntary correction agreement are not met; and

5 g. An agreement that by entering into the
6 voluntary correction agreement the person responsible for the
7 public nuisance waives the right to an administrative appeal of
8 the public nuisance and/or the required corrective action.

9 2. Right to a Hearing Waived. The person responsible
10 for the public nuisance waives the right to an administrative
11 appeal of the public nuisance and the required corrective action
12 upon entering into a voluntary correction agreement.

13 3. City's Right to Inspect. The City shall have the
14 right to inspect the subject property to determine compliance with
15 the terms of the voluntary correction agreement.

16 4. Extension--Modification. An extension of the time
17 limit for correction or a modification of the required corrective
18 action may be granted by the Chief if the person responsible for
19 the public nuisance has shown due diligence and/or substantial
20 progress in abating the public nuisance but unforeseen
21 circumstances render abatement under the original conditions
22 unattainable.

23 5. Abatement by the City. The City may abate the
24 public nuisance in accordance with Section 10.09.110 if the terms
25 of the voluntary correction agreement are not met.

26 6. Collection of Costs. If the terms of the voluntary
27 correction agreement are not met the person responsible for the
28 public nuisance shall be assessed a monetary penalty commencing on
29 the date set for correction and thereafter, in accordance with
30 Section 10.09.090(E), plus all costs and expenses of abatement, as

1 set forth in Section 10.09.110(D).

3 **10.09.090 Notice of civil violation**

4 A. Issuance.

5 1. When the Chief determines that a public nuisance is
6 occurring, and is unable to secure voluntary correction, pursuant
7 to Section 10.09.080, the Chief may issue a notice of abatement to
8 the person responsible for the public nuisance.

9 2. The Chief may issue a notice of abatement without
10 having attempted to secure voluntary correction as provided in
11 Section 10.09.080 under the following circumstances:

- 12 a. When an emergency exists; or
- 13 b. When the violation creates a situation or
- 14 condition which cannot be corrected; or
- 15 c. When the person knows or reasonably should
- 16 have known that a public nuisance exists.

17 B. Content. The notice of abatement shall include the
18 following:

- 19 1. The name and address of the person responsible for
- 20 the public nuisance; and
- 21 2. The street address or description sufficient for
- 22 identification of the building, structure, premises, or land upon
- 23 or within which the public nuisance is occurring; and
- 24 3. A description of the public nuisance; and
- 25 4. The required corrective action and a date and time
- 26 by which the correction must be completed after which the City may
- 27 abate the public nuisance in accordance with Section 10.09.110 and
- 28 the Hearing Examiner's order; and
- 29 5. The date, time and location of an appeal hearing
- 30 before the Hearing Examiner which will be at least ten days from

1 the date the notice of abatement is issued; and

2 6. A statement indicating that the hearing will be
3 canceled and no monetary penalty will be assessed if the Chief
4 approves the completed, required corrective action at least
5 forty-eight hours prior to the hearing; and

6 7. A statement that the costs and expenses of
7 abatement incurred by the City pursuant to Section 10.09.110(D)
8 and a monetary penalty in an amount per day for each day the
9 public nuisance continues to exist as specified in Section
10 10.09.090(E) may be assessed against the person to whom the notice
11 of abatement is directed as specified and ordered by the Hearing
12 Examiner.

13 C. Service of Notice. The Chief shall serve the notice of
14 abatement upon the person to whom it is directed, either
15 personally or by mailing, certified, return receipt requested, a
16 copy of the notice of abatement to such person at his/her last
17 known address. If the person to whom it is directed cannot after
18 due diligence be personally served within King County and if an
19 address for mailed service cannot after due diligence be
20 ascertained, notice shall be served by posting a copy of the
21 notice of abatement conspicuously on the affected property or
22 structure. Proof of service shall be made by a written
23 declaration under penalty of perjury executed by the person
24 effecting the service, declaring the time and date of service, the
25 manner by which the service was made, and if by posting the facts
26 showing that due diligence was used in attempting to serve the
27 person personally or by mail.

28 D. Extension. No extension of the time specified in the
29 notice of abatement for correction of the public nuisance may be
30 granted, except by order of the Hearing Examiner.

1 E. Monetary Penalty. The monetary penalty for each day the
2 public nuisance is permitted to continue or portion thereof shall
3 be as follows:

- 4 1. First day one hundred dollars;
- 5 2. Second day two hundred dollars;
- 6 3. Third day three hundred dollars;
- 7 4. Fourth day four hundred dollars;
- 8 5. Each additional day beyond four days, five hundred
9 dollars per day.

10 F. Continued Duty to Correct. Payment of a monetary
11 penalty pursuant to this chapter does not relieve the person to
12 whom the notice of abatement was issued of the duty to correct the
13 public nuisance.

14 G. Collection of monetary penalty.

15 1. The monetary penalty constitutes a personal
16 obligation of the person to whom the notice of abatement is
17 directed. Any monetary penalty assessed must be paid to the City
18 within ten (10) calendar days from the date of mailing of the
19 Hearing Examiner's decision or a notice from the City that
20 penalties are due.

21 2. The City Attorney or his/her designee is authorized
22 to take appropriate action to collect the monetary penalty.

23
24 **10.09.100 Hearing before the Hearing Examiner.**

25 A. Notice. A person to whom a notice of abatement is
26 issued will be scheduled to appear before the Hearing Examiner not
27 less than ten (10) and no more than thirty (30) calendar days
28 after the notice of abatement is issued.

29 B. Prior Correction of Public Nuisance. The hearing will
30 be canceled and no monetary penalty will be assessed if the Chief

1 approves the completed required corrective action at least
2 forty-eight (48) hours prior to the scheduled hearing.

3 C. Procedure. The Hearing Examiner shall conduct a hearing
4 on the civil violation pursuant to the rules of procedure of the
5 Hearing Examiner. The Chief and the person to whom the notice of
6 abatement was directed may participate as parties in the hearing
7 and each party may call witnesses. The City shall have the burden
8 of proof to demonstrate by a preponderance of the evidence that a
9 public nuisance is occurring and that the required corrective
10 action is reasonable. The determination of the Chief as to the
11 need for the required corrective action shall be accorded
12 substantial weight by the Hearing Examiner in determining the
13 reasonableness of the required corrective action.

14 D. Decision of the Hearing Examiner.

15 1. The Hearing Examiner shall determine whether the
16 City has established by a preponderance of the evidence that a
17 public nuisance exists and that the required correction is
18 reasonable and shall affirm, vacate, or modify the City's
19 decisions regarding the alleged public nuisance and/or the
20 required corrective action, with or without written conditions.

21 2. The Hearing Examiner shall issue an order to the
22 person responsible for the public nuisance which contains the
23 following information:

24 a. The decision regarding the alleged public
25 nuisance, including findings of fact and conclusions based thereon
26 in support of the decision;

27 b. The required corrective action;

28 c. The date and time by which the correction must
29 be completed;

30 d. The monetary penalties assessed based on the

1 criteria in Section 10.09.100(D)(3);

2 e. The date and time after which the City may
3 proceed with abatement of the public nuisance if the required
4 correction is not completed.

5 3. Assessment of Monetary Penalty. Monetary penalties
6 assessed by the Hearing Examiner shall be in accordance with the
7 monetary penalty schedule in Section 10.09.090(E).

8 a. The Hearing Examiner shall have the following
9 options in assessing monetary penalties:

10 i. Assess monetary penalties beginning on
11 the date the notice of abatement was issued and thereafter; or

12 ii. Assess monetary penalties beginning on
13 the correction date set by the Chief or an alternate correction
14 date set by the Hearing Examiner and thereafter, or

15 iii. Assess no monetary penalties.

16 b. In determining the monetary penalty
17 assessment, the Hearing Examiner shall consider the following
18 factors:

19 i. Whether the person responded to staff
20 attempts to contact the person and cooperated with efforts to
21 correct the public nuisance;

22 ii. Whether the person failed to appear at
23 the hearing;

24 iii. Whether the person showed due diligence
25 and/or substantial progress in correcting the public nuisance; and

26 vi. Any other relevant factors.

27 4. Notice of Decision. The Hearing Examiner shall
28 mail a copy of the decision to the person responsible for the
29 public nuisance and to the Chief within ten (10) working days of
30 the hearing.

1 E. Failure to Appear. If the person to whom the notice of
2 abatement was issued fails to appear at the scheduled hearing, the
3 examiner will enter an order finding that the public nuisance
4 exists and assessing the appropriate monetary penalty. The City
5 will carry out the Hearing Examiner's order and recover all
6 related expenses, plus the cost of the hearing and any monetary
7 penalty from that person.

8 F. Failure to Correct Public Nuisance Pursuant to Hearing
9 Examiner's Order. If the person responsible for the public
10 nuisance fails to correct the public nuisance as ordered by the
11 Hearing Examiner, monetary penalties shall automatically accrue in
12 the amounts set forth in the monetary penalty schedule in Section
13 10.09.090(E).

14 G. Appeal to Superior Court. An appeal of the decision of
15 the Hearing Examiner must be filed with Superior Court within
16 twenty (20) calendar days from the date the Hearing Examiner's
17 decision was mailed to the person to whom the notice of abatement
18 was directed, or is thereafter barred.

19
20 **10.09.110 Abatement by the City.**

21 A. The City may abate a public nuisance when:

22 1. The terms of voluntary correction agreement
23 pursuant to Section 10.09.080 have not been met; or

24 2. A notice of abatement has been issued pursuant to
25 Section 10.09.090 and a hearing has been held pursuant to Section
26 10.09.100 and the required correction has not been completed
27 by the date specified in the Hearing Examiner's order; or

28 3. The condition is subject to summary abatement as
29 provided for in Section 10.09.110(B).

30 B. Summary Abatement. Whenever a public nuisance exists

1 which constitutes an immediate and emergent threat to the public
2 health, safety or welfare or to the environment, the City may
3 summarily and without prior notice abate the condition. Notice of
4 such abatement, including the reason for it shall be given to the
5 person responsible for the public nuisance as soon as reasonably
6 possible after the abatement.

7 C. Authorized Action by the City. Using any lawful means,
8 the City may enter upon the subject property and may remove or
9 correct the condition which is subject to abatement. The City may
10 seek such judicial process as it deems necessary to effect the
11 removal or correction of such condition.

12 D. Recovery of Costs and Expenses. The costs, including
13 incidental expenses, of correcting the violation shall be billed
14 to the person responsible for the violation and/or the owner,
15 lessor, tenant or other person entitled to control, use and/or
16 occupy the property and shall become due and payable to the City
17 at the permit center within ten (10) calendar days. The term
18 "incidental expenses" includes but is not limited to personnel
19 costs, both direct and indirect, including attorney's fees; costs
20 incurred in documenting the violation; hauling, storage and
21 disposal expenses; and actual expenses and costs of the City in
22 preparing notices, specifications and contracts, and in
23 accomplishing and/or contracting and inspecting the work; and the
24 costs of any required printing and mailing.

25 E. Interference. No person shall obstruct, impede, or
26 interfere with the City or its agents, or with any person who
27 owns, or holds any interest or estate in any property, in
28 performing any tasks necessary to correct the violation.
29
30

1 **10.09.120 Severability.**

2 The provisions of this ordinance are declared to be separate
3 and severable. The invalidity of any clause, sentence, paragraph
4 subdivision, section or portion of this ordinance, or the
5 invalidity of the application thereof to any person or
6 circumstance shall not affect the validity of the remainder of
7 this ordinance, or the validity of its application to other
8 persons or circumstances.

9
10 This ordinance shall take effect and be in force thirty (30)
11 days from and after its passage and approval, if approved by the
12 Mayor; otherwise it shall take effect at the time it shall become
13 law under the provisions of the City Charter.

14 Passed by the City Council the ___ day of _____, 1992,
15 and signed by me in open session in authentication of its passage
16 this ___ day of _____, 1992.

17
18 _____
19 President of the City Council

20 Approved by me this ___ day of _____, 1992.

21 _____
22 Mayor

23 Filed by me this ___ day of _____, 1992.

24
25 ATTEST: _____
26 City Comptroller and City Clerk

27 By: _____
28 Deputy

29 (SEAL)

30 Published _____

ORDINANCE

AN ORDINANCE relating to the Seattle Municipal Code, amending Title 10 by adding a new Chapter 10.09 thereto to define a public nuisance, as permitted by RCW 35.22.280(30) which gives any City of the first class the power to declare what shall be a public nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer public nuisances to exist, and prescribing remedies therefor.

WHEREAS, the pervasive problems of increased violence, noise, public drunkenness, drug-trafficking and other illegal activity endanger the health, comfort, and safety of the community and are in part the result of properties which attract and encourage such behavior, thereby creating an unsafe environment, and they have become of such magnitude that they are a matter of City concern; and

WHEREAS, existing laws address mainly the criminal conduct of individuals but not the environment or premises which foster and encourage the problems; and

WHEREAS, it is the duty of the City of Seattle to preserve, promote and protect the public welfare, health and safety of all its citizens.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Title 10 of the Seattle Municipal Code is amended by adding a new Chapter 10.09 as follows:

10.09.010 Definitions.

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a public nuisance by such means, in such a manner and to such an extent as the Chief determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Chief" means the Chief of Police for the City of Seattle Police Department, or his/her designee.

D. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a City regulation.

1 E. "Emergency" means a situation which, in the opinion of
2 the Chief, requires immediate action to prevent or eliminate an
3 immediate threat to the health or safety of persons or property.

4 F. "Hearing Examiner" means the City of Seattle Hearing
5 Examiner and the office thereof established pursuant to Seattle
6 Municipal Code, Chapter 3.02.

7 G. "Owner" means any person who, alone or with others, has
8 title or interest in any building or premises, with or without
9 accompanying actual possession thereof. For the purpose of giving
10 notice, the term "owner" also includes any person in physical
11 possession.

12 H. "Person" means any individual, partnership, corporation,
13 trust, unincorporated or incorporated association, marital
14 community, joint venture, governmental entity, or other entity or
15 group of persons however organized.

16 I. "Person responsible for the public nuisance" means the
17 property owner and any person who causes or permits a public
18 nuisance to occur or remain upon property in the City, and
19 includes but is not limited to the owner(s), lessors(s),
20 tenant(s), or other person(s) entitled to control, use and/or
21 occupy property where a public nuisance occurs.

22 J. "Premises" means a plot of ground, whether occupied or
23 not.

24 K. "Property" means any building or structure, or the
25 premises on which the building or structure is located.

26 L. "Public place" means an area generally visible to public
27 view and includes alleys, bridges, driveways, parking lots, parks,
28 plazas, sidewalks, streets, and buildings open to the general
29 public, including those that serve food or drink or provide
30 entertainment, and the doorways and entrances to buildings or

1 dwellings and the grounds enclosing them.

2 M. "Unreasonable noise" means a noise as defined in Seattle
3 Municipal Code Section 25.08.500.

4
5 **10.09.020 Enforcement.**

6 This chapter shall be enforced and administered by the Chief
7 of Police. Upon request by the Chief of Police, all other City
8 departments and divisions are authorized to assist in enforcing
9 this Chapter.

10
11 **10.09.030 Public nuisance defined.**

12 A public nuisance is a condition which wrongfully annoys,
13 injures, or endangers the comfort, repose, health or safety of
14 others, or unlawfully interferes with, obstructs or tends to
15 obstruct, or render dangerous for passage, any public park,
16 square, street or highway; or in any way renders other persons
17 insecure in life, or in the use of property, and which affects
18 equally the rights of an entire community or neighborhood,
19 although the extent of damage may be unequal.

20
21 **10.09.040 Public nuisances enumerated.**

22 A. Public nuisances shall include, but not be limited to
23 the following:

- 24 1. Every property not licensed under state law where
25 any intoxicating liquors are kept for unlawful use, sale or
26 distribution; or
27 2. Every property where there exists an environment
28 which causes or encourages individuals or groups of individuals to
29 commit one or more of the following acts on the property or
30 adjacent public place, including but not limited to:

- 1 a. Illegally consume intoxicating liquor;
- 2 b. Publicly urinate or defecate;
- 3 c. By physical action, intentionally cause or
- 4 attempt to cause another person reasonably to fear imminent bodily
- 5 injury or the commission of a criminal act upon their person or
- 6 upon property in their immediate possession;
- 7 d. Engage in acts of violence, including fighting
- 8 amongst themselves;
- 9 e. Discharge a firearm or explosive in violation
- 10 of Seattle Municipal Code Section 12A.28.050;
- 11 f. Create unreasonable noise which disturbs
- 12 others;
- 13 g. Intentionally obstruct pedestrian or vehicular
- 14 traffic; or
- 15 h. Solicit acts of prostitution.

16 B. If the Chief finds a public nuisance to exist, the Chief
 17 shall order it abated in accordance with this Chapter.

18
 19 **10.09.050 Authorized act not a public nuisance.**

20 No act which is done or maintained under the express
 21 authority of a statute or ordinance can be deemed a public
 22 nuisance.

23
 24 **10.09.060 Successive owners liable.**

25 Every successive owner of property who neglects to abate a
 26 continuing public nuisance upon or in the use of such property
 27 caused by a former owner is liable therefor in the same manner as
 28 the one who first created it.

of Engineering and his or her authorized representatives.>

29
 30 B. "Director of Construction and Land Use" means the City
 Director of Construction and Land Use and his or her authorized
 representatives.>

((8)) C. "Driveway" means ((and includes)) that portion of
 a public place which provides vehicular access to adjacent pro-

in the constructed curb or, when there is no constructed curb,

that area in front of such vehicular facility as is well defined
or as is designated by authorized signs or markings.>

((9. "Improved public place" means any public place, as

defined in this section, which contains overhead or underground

Typeover

Doc 1 Pg 5 Ln 11 POS 15

1 **10.09.070 Abatement does not preclude action for damages.**

2 The abatement of a public nuisance does not prejudice the
3 right of any person to recover damages for its past existence.
4

5 **10.09.080 Voluntary correction.**

6 A. Applicability. This section applies whenever the Chief
7 determines that a public nuisance is occurring.

8 B. General. The Chief shall pursue a reasonable attempt to
9 secure voluntary correction by contacting the person responsible
10 for the public nuisance where possible, explaining the public
11 nuisance and requesting correction.

12 C. Issuance of Voluntary Correction Agreement. A voluntary
13 correction agreement may be entered into between the person
14 responsible for the public nuisance and the City, acting through
15 the Chief.

16 1. Content. The voluntary correction agreement is a
17 contract between the City and the person responsible for the
18 public nuisance under which such person agrees to abate the public
19 nuisance within a specified time and according to specified
20 conditions. The voluntary correction agreement shall include the
21 following:

22 a. The name and address of the person responsible
23 for the public nuisance; and

24 b. The street address or a description sufficient
25 for identification of the building, structure, premises, or land
26 upon or within which the public nuisance is occurring; and

27 c. A description of the public nuisance; and

28 d. The necessary corrective action to be taken,
29 and a date or time by which correction must be completed; and

30 e. An agreement by the person responsible for the

1 public nuisance that the City may inspect the premises as may be
2 necessary to determine compliance with the voluntary correction
3 agreement; and

4 f. An agreement by the person responsible for the
5 public nuisance that the City may abate the public nuisance and
6 recover its costs and expenses and a monetary penalty pursuant to
7 this chapter from the person responsible for the public nuisance
8 if terms of the voluntary correction agreement are not met; and

9 g. An agreement that by entering into the
10 voluntary correction agreement the person responsible for the
11 public nuisance waives the right to an administrative appeal of
12 the public nuisance and/or the required corrective action.

13 2. Right to a Hearing Waived. The person responsible
14 for the public nuisance waives the right to an administrative
15 appeal of the public nuisance and the required corrective action
16 upon entering into a voluntary correction agreement.

17 3. City's Right to Inspect. The City shall have the
18 right to inspect the subject property to determine compliance with
19 the terms of the voluntary correction agreement.

20 4. Extension--Modification. An extension of the time
21 limit for correction or a modification of the required corrective
22 action may be granted by the Chief if the person responsible for
23 the public nuisance has shown due diligence and/or substantial
24 progress in abating the public nuisance but unforeseen
25 circumstances render abatement under the original conditions
26 unattainable.

27 5. Abatement by the City. The City may abate the
28 public nuisance in accordance with Section 10.09.110 if the terms
29 of the voluntary correction agreement are not met.

30 6. Collection of Costs. If the terms of the voluntary

1 correction agreement are not met the person responsible for the
2 public nuisance shall be assessed a monetary penalty commencing on
3 the date set for correction and thereafter, in accordance with
4 Section 10.09.090(E), plus all costs and expenses of abatement, as
5 set forth in Section 10.09.110(D).

7 **10.09.090 Notice of civil violation.**

8 A. Issuance.

9 1. When the Chief determines that a public nuisance is
10 occurring, and is unable to secure voluntary correction, pursuant
11 to Section 10.09.080, the Chief may issue a notice of abatement to
12 the person responsible for the public nuisance.

13 2. The Chief may issue a notice of abatement without
14 having attempted to secure voluntary correction as provided in
15 Section 10.09.080 under the following circumstances:

- 16 a. When an emergency exists; or
- 17 b. When the violation creates a situation or
- 18 condition which cannot be corrected; or
- 19 c. When the person knows or reasonably should
- 20 have known that a public nuisance exists.

21 B. Content. The notice of abatement shall include the
22 following:

- 23 1. The name and address of the person responsible for
- 24 the public nuisance; and
- 25 2. The street address or description sufficient for
- 26 identification of the building, structure, premises, or land upon
- 27 or within which the public nuisance is occurring; and
- 28 3. A description of the public nuisance; and
- 29 4. The required corrective action and a date and time
- 30 by which the correction must be completed after which the City may

1 abate the public nuisance in accordance with Section 10.09.110 or
2 by order of the Hearing Examiner; and

3 5. Notwithstanding Seattle Municipal Code Section
4 3.02.090(A), the date, time and location of an appeal hearing
5 before the Hearing Examiner shall be scheduled not less than ten
6 (10) and no more than thirty (30) days from the date the notice of
7 abatement is issued; and

8 6. A statement indicating that the hearing will be
9 canceled and no monetary penalty will be assessed if the Chief
10 approves the completed, required corrective action at least
11 forty-eight hours prior to the hearing; and

12 7. A statement that the costs and expenses of
13 abatement incurred by the City pursuant to Section 10.09.110(D)
14 and a monetary penalty as specified in Section 10.09.090(E) may be
15 assessed against the person to whom the notice of abatement is
16 issued as specified and ordered by the Hearing Examiner.

17 C. Service of Notice. The Chief shall serve the notice of
18 abatement upon the person to whom it is issued, either personally
19 or by mailing, certified, return receipt requested, a copy of the
20 notice of abatement to such person at his/her last known address.
21 If the person to whom the notice is issued cannot after due
22 diligence be personally served within King County and if an
23 address for mailed service cannot after due diligence be
24 ascertained, notice shall be served by posting a copy of the
25 notice of abatement conspicuously on the affected property or
26 structure. Proof of service shall be made by a written
27 declaration under penalty of perjury executed by the person
28 effecting the service, declaring the time and date of service, the
29 manner by which the service was made, and if by posting the facts
30 showing that due diligence was used in attempting to serve the

1 person personally or by mail.

2 D. Extension. No extension of the time specified in the
3 notice of abatement for correction of the public nuisance may be
4 granted, except by order of the Hearing Examiner.

5 E. Monetary Penalty. The monetary penalty for each day the
6 public nuisance is permitted to continue or portion thereof shall
7 be as follows:

- 8 1. First day one hundred dollars;
- 9 2. Second day two hundred dollars;
- 10 3. Third day three hundred dollars;
- 11 4. Fourth day four hundred dollars;
- 12 5. Each additional day beyond four days, five hundred
13 dollars per day.

14 F. Continued Duty to Correct. Payment of a monetary
15 penalty pursuant to this chapter does not relieve the person to
16 whom the notice of abatement was issued of the duty to correct the
17 public nuisance.

18 G. Collection of monetary penalty.

19 1. The monetary penalty constitutes a personal
20 obligation of the person to whom the notice of abatement is
21 issued. Any monetary penalty assessed must be paid to the City
22 within ten (10) calendar days from the date of mailing of the
23 Hearing Examiner's decision and order or a notice from the City
24 that penalties are due.

25 2. The City Attorney or his/her designee is authorized
26 to take appropriate action to collect the monetary penalty, plus
27 reasonable attorneys' fees and costs incurred in collecting said
28 monetary penalty.

30

1 **10.09.100 Hearing before the Hearing Examiner.**

2 A. Notice. Notwithstanding Seattle Municipal Code Section
3 3.02.090(A), a person to whom a notice of abatement is issued
4 shall receive notice of the date, time and location of the hearing
5 before the Hearing Examiner, which hearing shall be scheduled not
6 less than ten (10) and no more than thirty (30) calendar days from
7 the date the notice of abatement is issued.

8 B. Prior Correction of Public Nuisance. The hearing will
9 be canceled and no monetary penalty will be assessed if the Chief
10 approves the completed required corrective action at least
11 forty-eight (48) hours prior to the scheduled hearing.

12 C. Procedure. The Hearing Examiner shall conduct a hearing
13 on the civil violation pursuant to the rules of procedure of the
14 Hearing Examiner. The Chief and the person to whom the notice of
15 abatement was issued are parties to the hearing and each may call
16 witnesses. The City shall have the burden of proof to demonstrate
17 by a preponderance of the evidence that a public nuisance is
18 occurring and that the required corrective action is reasonable.
19 The determination of the Chief as to the need for the required
20 corrective action shall be accorded substantial weight by the
21 Hearing Examiner in determining the reasonableness of the
22 corrective action.

23 D. Decision and Order of the Hearing Examiner.

24 1. The Hearing Examiner shall determine whether the
25 City has established by a preponderance of the evidence that a
26 public nuisance exists and that the required correction is
27 reasonable and shall affirm, vacate, or modify the City's decision
28 regarding the alleged public nuisance and/or the required
29 corrective action, with or without written conditions.

30 2. The Hearing Examiner shall issue a decision and

1 order to the person responsible for the public nuisance which
2 contains the following information:

3 a. The decision and order regarding the alleged
4 public nuisance, including findings of fact and conclusions based
5 thereon in support of the decision and order;

6 b. The required corrective action;

7 c. The date and time by which the correction must
8 be completed;

9 d. The monetary penalties assessed based on the
10 criteria in Section 10.09.100(D)(3);

11 e. The date and time after which the City may
12 proceed with abatement of the public nuisance if the required
13 correction is not completed.

14 3. Assessment of Monetary Penalty. Monetary penalties
15 assessed by the Hearing Examiner shall be in accordance with the
16 monetary penalty schedule in Section 10.09.090(E).

17 a. The Hearing Examiner shall have the following
18 options in assessing monetary penalties:

19 i. Assess monetary penalties beginning on
20 the date the notice of abatement was issued and thereafter; or

21 ii. Assess monetary penalties beginning on
22 the correction date set by the Chief or an alternate correction
23 date set by the Hearing Examiner and thereafter, or

24 iii. Assess no monetary penalties.

25 b. In determining the monetary penalty
26 assessment, the Hearing Examiner shall consider the following
27 factors:

28 i. Whether the person responded to staff
29 attempts to contact the person and cooperated with efforts to
30 correct the public nuisance;

1 ii. Whether the person failed to appear at
2 the hearing;

3 iii. Whether the person showed due diligence
4 and/or substantial progress in correcting the public nuisance; and

5 vi. Any other relevant factors.

6 4. Notice of Decision and Order. The Hearing Examiner
7 shall mail a copy of the decision and order to the person to whom
8 the notice of abatement was issued and to the Chief within ten
9 (10) working days of the close of the hearing record. If the
10 person to whom the decision and order is issued cannot after due
11 diligence be personally served within King County and if an
12 address for mailing cannot after due diligence be ascertained, a
13 copy of the decision and order shall be posted conspicuously on
14 the affected property or structure.

15 E. Failure to Appear. If the person to whom the notice of
16 abatement was issued fails to appear at the scheduled hearing, the
17 examiner will enter a decision and order finding that the public
18 nuisance exists and assessing the appropriate monetary penalty.
19 The City will carry out the Hearing Examiner's decision and order
20 and recover all related expenses, plus the cost of the hearing and
21 any monetary penalty from that person.

22 F. Failure to Correct Public Nuisance Pursuant to Hearing
23 Examiner's Decision and Order. If the person responsible for the
24 public nuisance fails to correct the public nuisance as ordered by
25 the Hearing Examiner, monetary penalties shall automatically
26 accrue in the amounts set forth in the monetary penalty schedule
27 in Section 10.09.090(E).

28 G. Appeal to Superior Court. An appeal of the decision and
29 order of the Hearing Examiner must be filed with Superior Court
30 within fifteen (15) calendar days from the date the Hearing

1 Examiner's decision and order was mailed to the person to whom the
2 notice of abatement was issued, or was posted on the affected
3 property pursuant to section 10.09.100(D)(4), or is thereafter
4 barred.

5
6 **10.09.110 Abatement by the City.**

7 A. The City may abate a public nuisance when:

8 1. The terms of voluntary correction agreement
9 pursuant to Section 10.09.080 have not been met; or

10 2. A notice of abatement has been issued pursuant to
11 Section 10.09.090 and a hearing has been held pursuant to Section
12 10.09.100 and the required correction has not been completed
13 by the date specified in the Hearing Examiner's decision and
14 order; or

15 3. The condition is subject to summary abatement as
16 provided for in Section 10.09.110(B).

17 B. Summary Abatement. Whenever a public nuisance exists
18 which constitutes an immediate and emergent threat to the public
19 health, safety or welfare or to the environment, the City may
20 summarily and without prior notice abate the condition. Notice of
21 such abatement, including the reason for it shall be given to the
22 person responsible for the public nuisance as soon as reasonably
23 possible after the abatement.

24 C. Authorized Action by the City. Using any lawful means,
25 the City may enter upon the subject property and may remove or
26 correct the condition which is subject to abatement. The City may
27 seek such judicial process as it deems necessary to effect the
28 removal or correction of such condition.

29 D. Recovery of Costs and Expenses. The costs, including
30 incidental expenses, of correcting the violation shall be billed

1 to the person responsible for the violation and/or the owner,
2 lessor, tenant or other person entitled to control, use and/or
3 occupy the property and shall become due and payable to the City
4 within ten (10) calendar days. The term "incidental expenses"
5 includes but is not limited to personnel costs, both direct and
6 indirect, including attorneys' fees and costs; costs incurred in
7 documenting the violation; hauling, storage and disposal expenses;
8 and actual expenses and costs of the City in preparing notices,
9 specifications and contracts, and in accomplishing and/or
10 contracting and inspecting the work; and the costs of any required
11 printing and mailing.

12 E. Interference. Any person who knowingly obstructs,
13 impedes, or interferes with the City or its agents, or with the
14 person responsible for the public nuisance in the performance of
15 duties imposed by this chapter, or a decision and order issued by
16 the Hearing Examiner or an agreement between the City and the
17 person responsible for the public nuisance, is guilty of a
18 misdemeanor.

19
20 **10.09.120 Severability.**

21 The provisions of this ordinance are declared to be separate
22 and severable. The invalidity of any clause, sentence, paragraph
23 subdivision, section or portion of this ordinance, or the
24 invalidity of the application thereof to any person or
25 circumstance shall not affect the validity of the remainder of
26 this ordinance, or the validity of its application to other
27 persons or circumstances.

28 This ordinance shall take effect and be in force thirty (30)
29 days from and after its passage and approval, if approved by the
30 Mayor; otherwise it shall take effect at the time it shall become

1 law under the provisions of the City Charter.

2 Passed by the City Council the ____ day of _____, 1992,
3 and signed by me in open session in authentication of its passage
4 this ____ day of _____, 1992.

5 _____
6 President of the City Council

7 Approved by me this ____ day of _____, 1992.

8 _____
9 Mayor

10 Filed by me this ____ day of _____, 1992.

11 _____
12 ATTEST: _____
13 City Comptroller and City Clerk

14 By: _____
15 Deputy

16 (SEAL)

17 Published _____
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TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Margaret Peeler

_____	_____
_____	_____
_____	_____
_____	_____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

22177
City of Seattle

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD:116349

was published on

10/06/92

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

B. Kelly

Subscribed and sworn to before me on

10/06/92

[Signature]

Notary Public for the State of Washington,
residing in Seattle

City of Seattle Ordinance

City of Seattle ORDINANCE 116348

AN ORDINANCE relating to the Seattle Municipal Code, amending Title 10 by adding a new Chapter 10.09 thereto to define a public nuisance, as permitted by RCW 35.22.385(30) which gives any City of the first class the power to declare what shall be a public nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer public nuisances to exist, and prescribing remedies therefor.

WHEREAS, the pervasive problems of increased violence, noise, public drunkenness, drug-trafficking and other illegal activity endanger the health, comfort, and safety of the community and are in part the result of properties which attract and encourage such behavior, thereby creating an unsafe environment, and they have become of such magnitude that they are a matter of City concern; and

WHEREAS, existing laws address mainly the criminal conduct of individuals but not the environment or premises which foster and encourage the problems; and

WHEREAS, it is the duty of the City of Seattle to preserve, promote and protect the public welfare, health and safety of all its citizens.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Title 10 of the Seattle Municipal Code is amended by adding a new Chapter 10.09 as follows:

10.09.010 Definitions.

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a public nuisance by such means, in such a manner and to such an extent as the Chief determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Chief" means the Chief of Police for the City of Seattle Police Department, or his/her designee.

D. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a City regulation.

E. "Emergency" means a situation which, in the opinion of the Chief, requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

F. "Hearing Examiner" means the City of Seattle Hearing Examiner and the office thereof established pursuant to Seattle Municipal Code, Chapter 3.02.

G. "Owner" means any person who, alone or with others, has title or interest in any building or premises, with or without accompanying actual possession thereof. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

H. "Person" means any individual, partnership, corporation, trust, unincorporated or incorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

I. "Person responsible for the public nuisance" means the property owner and any person who causes or permits a public nuisance to occur or remain upon property in the City, and includes but is not limited to the owner(s), lessor(s),

10.09.060 Successive owners liable.

Every successive owner of property or premises who neglects to abate a continuing public nuisance upon or in the use of such property caused by a former owner is liable therefor in the same manner as the one who first created it.

10.09.070 Abatement does not preclude action for damages.

The abatement of a public nuisance does not prejudice the right of any person to recover damages for its past existence.

10.09.080 Voluntary correction.

A. This section applies whenever the Chief determines that a public nuisance is occurring.

B. The Chief shall pursue a reasonable attempt to secure voluntary correction by contacting the person responsible for the public nuisance where possible, explaining the public nuisance and requesting correction.

C. A voluntary correction agreement may be entered into between the person responsible for the public nuisance and the City, acting through the Chief.

1. The voluntary correction agreement is a contract between the City and the person responsible for the public nuisance under which such person agrees to abate the public nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

a. The name and address of the person responsible for the public nuisance; and

b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the public nuisance is occurring; and

c. A description of the public nuisance; and

d. The necessary corrective action to be taken, and a date or time by which correction must be completed; and

e. An agreement by the person responsible for the public nuisance that the City may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement; and

f. An agreement by the person responsible for the public nuisance that the City may abate the public nuisance and recover its costs and expenses and a monetary penalty pursuant to this chapter from the person responsible for the public nuisance if terms of the voluntary correction agreement are not met; and

g. An agreement that by entering into the voluntary correction agreement the person responsible for the public nuisance waives the right to an administrative appeal of the public nuisance and/or the required corrective action.

2. The person responsible for the public nuisance waives the right to an administrative appeal of the public nuisance and the required corrective action upon entering into a voluntary correction agreement.