

## **MEMORANDUM**

TO: Public Safety and Education Committee  
Councilmember Tim Burgess, Chair  
Councilmember Sally Bagshaw, Vice-Chair  
Councilmember Sally Clark, Member

FROM: Assistant Chief Mike Sanford, Seattle Police Department  
Bob Scales, Law Department

SUBJECT: Chronic Nuisance Property Ordinance – 2010 Annual Report

DATE: February 9, 2011

This report is being submitted to the City Council as required by Ordinance 123188. This report provides details of the properties that were declared to be chronic nuisances in 2010 as well as properties that are currently being monitored for nuisance activity. The report also provides an assessment of the effectiveness of the ordinance at abating nuisance properties.

### **Ordinance Implementation**

The Chronic Nuisance Properties ordinance went into effect on January 2, 2010. During the first quarter of 2010 SPD and the Law Department developed procedures for implementing the Chronic Nuisance Property Ordinance (See Attachment A) and drafted templates for the Nuisance Declaration Letter (Attachment B) and Correction Agreement (Attachment C). SPD created a checklist for information and data that would be needed to identify and track potential nuisance properties and build a chronic nuisance property case. Each Precinct Commander was assigned the task of identifying and monitoring nuisance properties within their jurisdiction.

### **Properties Declared to be a Chronic Nuisance in 2010**

1. 4200 Block Aurora Avenue North
  - Description: The property is commercially zoned and had been used as a low-cost motel having approximately 30+/- units.
  - Nuisance Declaration Date: September 7, 2010

- Nuisance Activities: Seven nuisance activities occurring within 60 days. Those activities included six instances resulting in the police seizure of drugs or drug paraphernalia and one activity involving an assault.
- Actions Taken: Shortly after the declaration was issued, the property was foreclosed upon and sold at auction. The “person in charge” moved from the property and the new owner, having no motel license, closed the business. Consequently, the nuisance activities ended. No correction agreement was entered into and further proceedings were unnecessary.
- Results: The new owners have closed the motel and removed all persons from the premises (except one person claiming to be a long-term tenant with a rental agreement). All remaining units have been boarded, the property fenced, and “No Trespassing” signs posted. The declaration of a Chronic Nuisance Property likely hastened the result in this matter.

## 2. 2300 Block Fourth Avenue

- Description: The property is an apartment building with 36 units.
- Nuisance Declaration Date: October 27, 2010
- Nuisance Activities: The declaration was based upon 21 nuisance activities occurring within 10 months. Those activities included assault, robbery, harassment, and drug-related activity.
- Actions Taken: SPD began meeting with the owner in early October 2010. After the nuisance declaration was issued SPD and the owners began to negotiate a correction agreement that was signed on January 26, 2011.
- Results: The number of 911 calls associated with the property dropped by 82% (11 calls per month from Jan-Sept 2010 down to 2 calls per month from Oct 2010-Jan 2011). The property owner began to take steps to abate the nuisance activity in early October after meeting with SPD and being notified about the nuisance abatement process. One of the main problems with this property was a lack of building security. Tenants would often give or sell their keys to persons who would use the building to deal and use drugs or engage in prostitution. The front and back doors of the apartment complex had been destroyed which allowed anyone to access to the common areas. This lack of security created a haven for drug use and prostitution. In response SPD has increased the number of premises checks. In January 2011 the owner installed metal doors with key card access. With the new key card system the keys can be deactivated immediately if they fall into the wrong hands and tenants will have to pay a fee to get a replacement key card.

## **Properties Being Monitored by SPD for Nuisance Activity**

### **North Precinct**

<b>Hundred Block</b>	<b>Type</b>	<b>Time Frame</b>	<b>Reported Incidents</b>
4200 blk. Aurora Ave N	Motel	January 2010 – December 2010	60
4400 Greenlake Way N	Motel	January 2010 – December 2010	65
4100 blk. Aurora Ave N	Motel	January 2010 – December 2010	Boarded up
9000 blk. 3 <sup>rd</sup> Ave NW	Residence	January 2010 – January 2011	34
12500 blk. 33 <sup>rd</sup> NE	Residence	January 2010 – January 2011	5
5000 blk. 15 <sup>th</sup> NE	Boarding House	January 2010 – January 2011	7
12000 blk. Aurora Ave N	Motel	January 2010 – January 2011	39
14200 blk. Linden Ave N	Apartments	January 2010 – January 2011	147

### **South Precinct**

<b>Hundred Block</b>	<b>Type</b>	<b>Time Frame</b>	<b>Reported Incidents</b>
8400 blk. of 55 <sup>th</sup> Ave S.	Residence	June 2010 – Feb. 2011	27

### **Southwest Precinct**

<b>Hundred Block</b>	<b>Type</b>	<b>Time Frame</b>	<b>Reported Incidents</b>
500 blk. S. Cloverdale St	Apartment	January 2010 – January 2011	71
8000 Fauntleroy Way SW	Residence	January 2010 – January 2011	10
8100 blk. 34 <sup>th</sup> Ave SW	Residence	January 2010 – January 2011	9
5600 blk. Delridge Way SW	Residence	January 2010 – January 2011	23
8600 31 <sup>st</sup> Ave SW	Residence	January 2010 – January 2011	9
8400 blk. 36 <sup>th</sup> SW	Residence	January 2010- January 2011	22
6500 blk. 44 <sup>th</sup> SW	Residence	January 2010 – January 2011	20

### **West Precinct**

<b>Hundred Block</b>	<b>Type</b>	<b>Time Frame</b>	<b>Reported Incidents</b>
2300 blk. 4 <sup>th</sup> Ave	Apartment	January 2010 – December 2010 January 2011 – February 2011	77 1
1700 blk. Airport Way S	Treatment Ctr.	January 2010 – February 2011	54

### **East Precinct**

<b>Hundred Block</b>	<b>Type</b>	<b>Time Frame</b>	<b>Reported Incidents</b>
1800 blk. E. Howell	Residence	January 2010 – January 2011	12
9000 blk. 27 <sup>th</sup> Ave	Residence	January 2010 – January 2011	15
1100 blk. Summit Ave	Health Center	February 2010 – February 2011	26
2700 blk. S. Lane	Residence	January 2010 – February 2011	19

There are many different types of properties being monitored for nuisance activity. The unique problems associated with each property require a customized response. Here are some examples of problematic properties and actions being taken by SPD:

- Aurora Area Motels – Some of these motels have had a long association with narcotics activity and prostitution. Due to economic difficulties with the owners, three of these motels have been sold or are up for sale. SPD will begin working with the new owners to prevent further nuisance activity.
- An apartment complex with a high level of narcotics activity has had a CPTED (Crime Prevention Through Environmental Design) assessment and SPD is working with management to implement the recommended improvements.
- A number of residential properties have owners or tenants who are engaged in criminal activity such as burglaries, scrap metal theft and fencing stolen property. This often results in a large amount of traffic in and out of the property. Other properties are unsanitary, have domestic violence issues or have unsupervised children who are engaged in criminal activity in the neighborhood. In these situations it may be more effective to seek criminal charges against the owners or make a referral to child protective services rather than proceed with a nuisance abatement action. There are some properties where the nuisance activities ended once the problematic resident was arrested.
- One SHA residential property had been associated with gangs, narcotics and prostitution. However, after SPD began working with the property owners on nuisance abatement the illegal activity has ceased.
- Evictions – Some property owners, when notified of the nuisance activities of their tenants and the consequences for failure to abate the nuisances, have proactively sought the eviction of those tenants. The eviction process has had the effect of reducing nuisance activities.
- The owner of a residence in West Seattle allowed transients into his home for drinking binges and there were many alcohol related disturbances reported by the neighbors. The neighbors began a civil suit and SPD started working up a chronic nuisance property action. This pressure has caused the problematic person to move out of the building and there have been no further incidents.

### **Implementation Issues**

During the first year of implementing the Chronic Nuisance Property ordinance the following issues have been identified:

- Documentation of nuisance activities

If an abatement action is brought in court, the ordinance states that nuisance activities must be proven by a preponderance of the evidence. This is a lower standard of proof than would be required if the nuisance activities were prosecuted as crimes (i.e. beyond a reasonable doubt). Since most of the nuisance activities used to support a declaration have not been prosecuted as crimes, there has been no prior judicial determination as to whether or not the

activities have actually occurred. While the ordinance does not require that nuisance activities be referred for criminal prosecution, in order to meet the preponderance of the evidence standard, SPD policy requires that a report of nuisance activity must be “otherwise fileable” (i.e. there is sufficient evidence that would result in the filing of criminal charges if the case were referred to the prosecutor’s office). This standard has limited the number of nuisance activities that can be considered for a nuisance declaration.

It was decided that for the first few nuisance property declarations issued, the number of documented nuisance activities would be at least double what was required by the ordinance. This was done to ensure that if the abatement actions went to court, there would be ample evidence to support the nuisance declaration even if some of the nuisance activities could not be proven by a preponderance of the evidence. Once SPD had successfully completed several nuisance actions and the policies and procedures were found to be adequate, the required number of nuisance actions for the declaration would be adjusted to a more appropriate number.

- Financial penalties may be inadequate

When a property owner has no financial means, the financial penalties contained in the ordinance seem to have little impact on their behavior. A property owner has little incentive to resolve the nuisance activities to avoid a fine if they are already in financial trouble. More often than not the owner’s property is their primary source of income whether it is from legal or illegal sources and there is no financial incentive to abate the nuisance. In these cases the property owner may continue to manage the property even with the nuisances until forced to sell or vacate the property by foreclosure or other means. In these types of circumstances a criminal penalty for continuing to operate a nuisance property may provide sufficient motivation for the owner to abate the nuisance voluntarily.

- Identifying the property owner

Sometimes determining the property owner can be problematic – for example, when a property is owned by a corporation. If the corporation has expired then there would no longer be corporate officers merely shareholders. Other complications may arise if the property is part of marital assets and the marriage is dissolving. Sometimes the property is simply abandoned and no owner or responsible party can be identified.

- Transfer of ownership

Despite the ordinance title, the nuisance declaration does not impact the property itself. The ordinance simply holds “persons in charge” and property owners responsible. Should the property be sold however, new owners may not be aware of the problems or declaration. There is no requirement or provision for filing the Declaration with the County Auditor which would put potential purchasers on notice. It is also arguable that the sale of the property could potentially be determined to have resolved the nuisance without ever resolving the underlying cause.