SEATTLE CITY COUNCIL
CENTRAL STAFF

June 18, 2025

M E M O R A N D U M

To: Public Safety Committee
From: Ben Noble, Central Staff Director
Subject: Council Bill 121006 - Chronic Nuisance Properties

On June 24th, the Public Safety Committee (Committee) will have an initial discussion and briefing on Council Bill (CB) 121006, which would amend the Seattle Municipal Code's (SMC) provisions regarding "chronic nuisance properties." In particular, the proposed legislation would: (i) expand the set of actions which constitute potential nuisance activity, and; (ii) allow actions that occur off-site, but in proximity to a specific property, that involve a person associated with the property, *and* that can be shown have a connection (nexus) to the property, to serve as justification for a chronic nuisance property designation.

This memorandum (1) provides background on the City's existing regulation of nuisance properties, (2) describes the effect of CB 121006, and (3) discusses next steps.

Background

Nuisance Property Regulation

This is the second legislative proposal regarding nuisance properties that Council has taken up in just over a year. Recall that in May 2024, the Council approved Ordinance 120777, granting the Fire Chief expanded authority to abate unsafe buildings. That legislation amended the City's Fire Code and most specifically focused on building conditions, and the potential for vacant or abandoned buildings to become fire risks or general public health hazards. In contrast, CB 121006 primarily focuses on potential nuisance activities at or near active commercial businesses and occupied residential properties.

Chapter 10.09 of the SMC, which was comprehensively amended in 2009, sets out the City's approach to identifying, regulating, and, as necessary, abating chronic nuisance properties. The basic regulatory framework empowers the Chief of Police, under specified circumstances, to declare a property a chronic nuisance and to seek abatement under threat of potential penalties and, in the extreme, suspension or revocation of a business license.

The SMC describes a process of engagement that begins with the Police Chief (Chief) providing written documentation to the "person in charge"[1] of the property and the property owner declaring the property a chronic nuisance, explaining the basis for that designation, and identifying steps the Chief identifies as necessary to abate the nuisance. If the person in charge responds cooperatively, a "correction agreement" is negotiated between (among) the City and the person in charge (and the property owner, if different than the person in charge). This

[1] This term is defined in the SMC.

agreement sets out the actions needed to abate the nuisance and the timeline for implementation. If the abatement actions are taken and the nuisance is addressed “to the satisfaction of the Chief," the matter is resolved. As detailed later in the memorandum, penalties and other punitive measures are available when the person in charge of the property and/or the owner is not cooperative, and the nuisance persists.

While the authority to designate properties and negotiate these agreements is vested in the Chief, as a matter of practice, the Seattle Police Department (SPD) works closely with the City Attorney’s Office (CAO) in documenting the nuisance activity, identifying appropriate abatement measures, drafting the initial letter, and crafting a correction agreement. The CAO’s precinct liaison attorneys are specifically available to assist in this work. To formalize this process and emphasize the important role of the CAO, the proposed legislation would add language that says the Chief’s designation of a chronic nuisance property can be made only “after consulting with the City Attorney.”

What Constitutes a Nuisance?

Per SMC 10.09.010 , a property can be designated a chronic nuisance property if:

1. Three or more nuisance activities have occurred during any 60-day period, or seven or more activities have occurred in any 12-month period; or
2. A court has found probable cause to issue a search warrant for the property related to the possession, manufacture, or delivery of a controlled substance two or more times within a 12-month period.

Regarding the first of these situations, “nuisance activities” are defined in the SMC to include a wide range of criminal activity, such as physical violence, drug manufacturing, distribution, and possession, prostitution, the promotion of prostitution, weapons violations, and gang-related activity, the latter as defined in state law.

Enforcement, Penalties, Burden of Proof, and the Role of the Court

The Chief works with the CAO in ensuring that the terms of the “correction agreements” are met. Faced with ongoing chronic nuisance activity where the person in charge is not cooperative and the nuisance(s) persist, the Chief may refer the matter to the CAO, who may file a court action for immediate abatement. The court can provide a range of remedies, including orders “that will reasonably abate the nuisance activity,” fines of $500 per day against the person in charge, and a civil penalty of up to $25,000 on the property owner. Lastly, the court can suspend or revoke a City business license as part of an enforcement effort.

In pursuing such enforcement actions, the City bears the burden of proof “by a preponderance of the evidence” that the property is a chronic nuisance. Per SMC 10.09.070, “Copies of police incident reports and reports of other city departments documenting nuisance activity shall be admissible in such actions.” There is no requirement for an arrest, formal charges, or adjudication. This is consistent with the approach taken in other jurisdictions with comparable laws.

Practice to Date

As noted in the bill's recitals, the City has invoked its regulatory and enforcement powers under SMC 10.09 seventeen times since adopting the ordinance in 2009. I have reviewed 13 of the associated initial enforcement letters. Five were associated with nightclubs, five with motels, and three with residential properties. Cited nuisance activities included drug sales, robbery, assault, domestic violence, and weapons violations, among others. The requested abatement included actions such as changing the locks, barring previous tenants, cleaning up garbage and debris, increased security, installation of security cameras, limitations on visitation, limitations on hours of operation, and a commitment to allowing ongoing inspections by the Seattle Police Department. The most significant required abatement was the immediate closure and eviction of the tenant business. To date, none of these chronic nuisance property designations and abatement demands have required court intervention to resolve.

CB 121006 – Policy Motivation and Proposed Legislative Changes

The proposed legislation would make two significant changes: (i) add liquor offenses to the list of potential nuisance activities; and (ii) expand the definition of nuisance activities to include actions that "occur adjacent to or in proximity to the property" if they "involve a person associated with the property, including either a person in charge of the property, or a guest or invitee of the person in charge," and if "facts and circumstances establish a nexus between the property and the nuisance activity."

The addition of liquor offenses includes the sale of alcohol without a license, alcohol sales outside authorized hours, underage consumption of alcohol, public consumption of alcohol where prohibited, etc. From a policy perspective, this provides a basis for applying the chronic nuisance ordinance to businesses that operate without a liquor license and/or sell alcohol after authorized hours.

Per the findings set out in Section 1 of the bill, the proposed expansion of nuisance activities to actions in proximity to a given property is in response to recent shootings and assaults associated with nightlife businesses. At least some of these violent actions have occurred outside the facilities in question and off their property, and thus these activities cannot currently be used as evidence of a chronic nuisance.

If this legislation is adopted, such "off-site" actions could become the basis for a nuisance property declaration. To play such a role, three key elements would all need to be demonstrated:

1. *The activities must have occurred "adjacent to or in proximity to" the property in question.* "Proximity" is not defined, but it is not the only condition that must be met.
2. *The activities involve a person associated with the property.* The language regarding guests or invitees can be read to include the customers of a given business.

3. *Facts and circumstances establish a nexus between the property and the nuisance activity.* Nexus is the key notion here, and while it is not defined in the ordinance, it is a term of art in law implying a tie or connection.

If all three aspects are met, the associated activities could be considered in the Chief's designation of the property as a chronic nuisance. This would then trigger the notification, compliance, and potential enforcement steps described above. As proposed, off-site nuisance activity could be the sole basis for nuisance property designation, as long as the number of activities per time period threshold is met under SMC 10.09.010.

Potential Policy Considerations

The most fundamental underlying issue raised by the proposed changes to the City's nuisance property regulatory structure is whether it is reasonable to hold a business operator, landlord, and/or property owner responsible for off-premise activity, and what actions can reasonably be demanded to address such situations. While violent activity associated with a specific business or a particular location can create a real public safety hazard, what share of the responsibility for addressing this hazard falls on the business operator and property owner, and what share is the responsibility of local law enforcement? As described in this memorandum, the proposed legislation would extend the current regulatory structure so that the City could force private parties to accept some direct responsibility and to undertake abatement actions for off-site activity. The existing authority has been invoked infrequently, requires significant process, and ultimately relies on the judgment of a court to enforce. This legislation would significantly expand this existing authority but not change the City's basic regulatory approach.

Next Steps

The Committee will have an initial briefing and discussion on June 24th. At its meeting on July 8th, the committee may vote on a recommendation to the Full Council.