

City of Lynnwood
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CITY OF LYNNWOOD
ORDINANCE NO. 2012

AN ORDINANCE ADDING NEW SECTIONS TO CHAPTER 16.08 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR REGULATION AND ABATEMENT OF UNSAFE AND UNSANITARY STRUCTURES AND PREMISES AND PROVIDING FOR VIOLATIONS AND PENALTIES

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

Section 1. NEW SECTION ADDED TO LMC 16.08 New sections are added to Chapter 16.08 of the Lynnwood Municipal Code, to read as follows:

- 16.08.200 Purpose and Findings.
- 16.08.210 Definitions.
- 16.08.220 Duties of the Director.
- 16.08.230 Unfit Buildings.
- 16.08.240 Substandard Buildings.
- 16.08.250 Nuisances.
- 16.08.260 Complaint.
- 16.08.270 Hearings Before the Hearing Examiner.
- 16.08.290 Enforcement.
- 16.08.300 Costs.
- 16.08.310 Permit Required.
- 16.08.320 Rules and Regulations.
- 16.08.330 Penalties.
- 16.08.340 Emergencies.

16.08.200 PURPOSE AND FINDINGS The City Council of the City of Lynnwood finds that unkempt, unsafe, unsanitary, and otherwise improperly maintained premises and structures, sidewalks, and easements within the City of Lynnwood, in addition to the obvious hazards which these conditions pose to the public health, safety, and welfare, adversely effect the value, utility, and habitability of the property within the City as a whole and specifically cause substantial damage to adjoining and nearby property. A property which is merely unkempt, may substantially reduce the value of adjoining and nearby property and there are sufficient properties which are unkempt, unsightly and dangerous, that the habitability and economic well-being of the City are materially and adversely affected. This Chapter conveys to the City administration, in accordance with the procedures set out below, all necessary and proper powers to abate nuisances as they are described or found to exist and to charge the costs of their abatement to those responsible, the owners and occupants of the property upon which nuisances exists, and those properties themselves. This Chapter is an exercise of the City's police power, and it shall be liberally construed to effect this purpose.

16.08.210 DEFINITIONS Unless specifically defined below or unless context clearly requires a different meaning, terms used in this Chapter have the meaning given them by the currently

adopted edition of the Uniform Building Code. Gender and number are interchangeable. Defined terms or concepts from Title 16 generally apply to this Chapter.

- (1) "Abandoned" refers to any property, real or personal, which is unattended and either open or unsecured so that admittance may be gained without damaging any portion of the property, or which evidences indicia that no person is presently in possession, e.g. disconnected utilities, accumulated debris, uncleanliness, disrepair and, in the case of chattels, location. Length of time or any particular state of mind of the owner or person entitled to possession are not conclusive in determining that property is abandoned.
- (2) "Boarded-Up Building" means any building the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving to the building the appearance of non-occupancy or non-use for an indefinite period of time.
- (3) "Building" means any building, dwelling, structure, or mobile home, factory built house, or part thereof, built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.
- (4) "Director" means the applicable Director of a City Department, that Director's authorized deputies and representative.
- (5) "Health Officer" means the head of the Snohomish District Health Department, his authorized deputies or representatives.
- (6) "Nuisance" includes:
 - (a) a nuisance defined by statute or ordinance;
 - (b) a nuisance at common law either public or private;
 - (c) an attractive nuisance, whether in or on a building, a building premises or an unoccupied lot and whether realty, fixture or chattel, which might reasonably be expected to attract children of tender years and constitute a danger to them; including, but not limited to, abandoned wells, ice boxes or refrigerators with doors and latches, shafts, basements or other excavations, abandoned or inoperative vehicles or other equipment, structurally unsound fences or other fixtures, lumber, fencing, vegetation or other debris;
 - (d) uncleanliness or whatever is dangerous to human life or detrimental to health; or
 - (e) abandonment or vacancy.
- (7) "Owner" means any person having any interest in the real estate in question as shown upon the records of the office of the Snohomish County Auditor, or who

establishes his interest before the Director or Hearing Examiner. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

16.08.220 DUTIES OF THE DIRECTOR The Director is the chief administrative officer for the purposes of this Chapter, whose duties and powers include:

- (1) Investigation of all buildings and premises for which there are reasonable grounds to believe such may be unfit, substandard, boarded up, or a nuisance;
- (2) Preparation, service and posting of complaints against buildings or premises believed to be in violation; and
- (3) Doing all things necessary and proper to carry out and enforce this Chapter.

16.08.230 UNFIT BUILDINGS

- (1) In reaching a judgment that a building is unfit for human habitation, the Director or the Hearing Examiner shall consider:
 - (a) dilapidation,
 - (b) disrepair,
 - (c) structural defects,
 - (d) defects increasing the hazards of fire, accidents or other calamities, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury,
 - (e) inadequate ventilation,
 - (f) uncleanliness,
 - (g) inadequate light,
 - (h) inadequate sanitary facilities,
 - (i) inadequate drainage,
 - (j) substandard conditions.
- (2) If these or other conditions are found to exist to an extent dangerous or injurious to the health or safety of the building's occupants, or the occupants of neighboring buildings or of other residents of the City of Lynnwood, and if (a) structural deterioration is of such degree that (i) vertical members list, lean or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base, or (ii) thirty-three percent (33%) of the

supporting members shows damage or deterioration, or (b) the cost of restoration exceeds sixty percent (60%) of the value of the building or (c) the building has been damaged by fire or other calamity, the cost of restoration exceeds thirty percent (30%) of the value of the building and it has remained vacant for six months or more, the Director or the Hearing Examiner shall order the building or premises demolished and the land suitably filled and cleared, or shall order the property immediately vacated and secured as completely as possible pending demolition. (Value shall be determined by reference to a current edition of "Building Valuation Data" published by the International Conference of Building Officials or, if not published, as determined by the Director. Cost of restoration is the actual estimated cost, which may be determined in the same manner as "value".)

- (3) An undertaking entered into at or prior to the hearing by a party in interest creates a presumption that the building or premises can be reasonably repaired. The failure to accomplish such an undertaking is grounds for the Director or the Hearing Examiner to order demolition. If by reason of any of the above conditions a building is unfit, but no public necessity is found for its immediate demolition, the Director or the Hearing Examiner may take other action, such as causing the property to be cleaned, cleared, vacated, secured or otherwise repaired, which will promote the public health, safety or general welfare.

16.08.240 SUBSTANDARD BUILDINGS

- (1) In reaching a judgment that a building or premises is substandard, the Director and the Hearing Examiner shall be guided by such factors as:
 - (a) structural unsoundness;
 - (b) improper sanitation;
 - (c) improper safety;
 - (d) improper weatherproofing;
 - (e) defective or hazardous wiring, including wiring which
 - (i) did not conform with law applicable at the time of installation, or
 - (ii) has not been maintained in good condition, or
 - (iii) is not being used in a safe manner;
 - (f) defective or hazardous plumbing, including plumbing which
 - (i) did not conform with law applicable at the time of installation, or
 - (ii) has not been maintained in good condition, or

- (iii) is not being used in a safe manner;
 - (g) defective or hazardous heating or ventilating equipment, including equipment, vents and piping which
 - (i) did not conform with law applicable at the time of installation, or
 - (ii) has not been maintained in good and safe condition;
 - (h) fire hazard, including any building, device, apparatus, equipment, combustible waste or debris, or vegetation which may cause fire or explosion or provide ready fuel to augment the spread or intensity thereof;
 - (i) nuisance.
- (2) Upon a finding by the Director or Hearing Examiner that a building or premises is substandard, the Director or Hearing Examiner shall order the building or premises repaired, cleaned, cleared or otherwise brought into compliance with current Codes, and may order the property vacated and secured as completely as possible pending such repair or other action.

16.08.250 NUISANCES

- (1) In determining that a nuisance exists, the Director and the Hearing Examiner will consider whether the conditions:
- (a) injure, endanger or unreasonably annoy the comfort, repose, health or safety of others;
 - (b) offend decency;
 - (c) offend the senses;
 - (d) unlawfully interfere, obstruct, tend to obstruct or endanger the passage of any stream, park, parkway, square, street, sidewalk, easement or way;
 - (e) render others insecure in life or use of property;
 - (f) obstruct the full use of property so as to essentially interfere with the comfortable enjoyment of life or property;
 - (g) constitute a weed hazard;
 - (h) violate any provision of this Code, especially Title 7, 10, and 16, or
 - (i) are unlawful or illegal.

- (2) If the Director or Hearing Examiner finds a nuisance to exist, they shall order it abated and may order the property otherwise secured pending abatement.

16.08.260 COMPLAINT If, after a preliminary investigation of any building or premises, the Director finds that it is an unfit, substandard, boarded-up, required to be boarded-up, or a nuisance; he shall cause the owners to be served, either personally or by first class and certified mail with return receipt requested and shall post in a conspicuous place on such property, a complaint stating in what respect such building is unfit for human habitation or other use or is substandard or that it is or should be a boarded-up building or that the premises is a nuisance. If the whereabouts of such person is unknown and cannot be ascertained by the Director in the exercise of reasonable diligence, he shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made either by personal service or by mailing a copy of the notice and orders by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the County, or at the address known to the County Assessor. A copy of the notice and order shall also be mailed, addressed to each person, at the address of the building involved in the proceedings, if different, and to each person or party having a recorded right, title, estate, lien, or interest in the property. Such complaint shall contain a notice that a hearing will be held before the Hearing Examiner at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of such complaint; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. A copy of such complaint shall also be filed with the Auditor of Snohomish County, and such filing of the complaint and order shall have the force and effect of *lis pendens*.

16.08.270 HEARINGS BEFORE THE HEARING EXAMINER

- (1) Unless, prior to the time fixed for hearing in the complaint issued by the Hearing Examiner, arrangements satisfactory to the Hearing Examiner for the repair, demolition, vacation or reoccupancy of the building or premises are made, including the proper application for permits, or abatement of the nuisance, the Hearing Examiner shall hold a hearing in accordance with PROCESS II (LMC 1.35.200 et. seq.) and this chapter for the purpose of determining the immediate disposition of the building or premises. The Hearing Examiner shall determine whether or not the building is an unfit building as defined Section 16.08.230, or whether the building is a substandard or boarded-up building as defined by Sections 16.08.230 and 16.08.240, or if the condition is a nuisance under Section 16.08.250. The Rules of Evidence prevailing in courts of law or equity shall not be controlling at the hearing before the Hearing Examiner. Evidence, including hearsay evidence is admissible if in the judgment of the Hearing Examiner it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.
- (2) The Hearing Examiner shall determine whether or not the building should be repaired or vacated in the event that it fails to comply with any provision or provisions of Section 16.08.230 or 16.08.240, whether or not the building should be demolished based upon the specific requirements of Section 16.08.230,

whether an annual inspection fee is due or a building should be boarded-up or whether or not a nuisance should be abated under Section 16.08.250.

- (3) If, after the required hearing, the Hearing Examiner determines that the building is unfit, substandard or boarded-up, or the condition of the building or premises is a nuisance, the Examiner shall state in writing his or her findings of fact in support of such determination, and shall issue and cause to be served upon the owner and other appearing a copy of such findings in the manner provided in Section 16.08.280. The Examiner shall cause to be posted an order in a conspicuous place on said property
 - (a) requiring the owner or party in interest, within the time specified in the order, to repair, alter or improve such building to render it fit for human habitation or for other use, and to vacate and close the building, or
 - (b) requiring the owner or party in interest, within the time specified in the order, to repair, alter or improve such building to render it fit for human habitation or for other use, or to vacate and close the building, or
 - (c) stating that an annual inspection fee has been assessed against the building until such time as it is reoccupied or demolished, or
 - (d) requiring the owner or party in interest to abate the nuisance and setting out generally those steps necessary to abate it, including boarding-up an abandoned or vacant building. In addition, such order shall state that the owner has the right to appeal to the Superior Court in accordance with RCW 1.35.260 and, unless he does appeal or comply with the order, the City shall have the power, without further notice or Proceedings, to vacate and secure the building or Premises and do any act required of the owner in the order of the Hearing Examiner, and to charge any expenses incurred thereby to the owner and assess them against the property; provided, that if an annual inspection fee is the only order made by the Hearing Examiner, the addition to the notice need only state that unless the fee is paid or arrangements for payment are made or an appeal filed, that amount will be assessed against the property.
- (4) If no appeal is filed, a copy of such order shall be filed with the Auditor of Snohomish County and shall be a final order.

16.08.290 ENFORCEMENT

- (1) The order of the Director or the Hearing Examiner may prescribe times within which demolition shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the Director may cause the building to be demolished and the premises to be suitably filled and cleared. If satisfactory progress has been made and sufficient evidence is presented that the work will be completed within a reasonable time, the Director or the Hearing Examiner may extend the

time for completion of the work. If satisfactory or substantial progress has not been made, the Director or the Hearing Examiner may cause the building to be demolished and the premises suitably filled and cleared.

- (2) If other action ordered by the Director or the Hearing Examiner is not taken within the time prescribed, or if no time is specified within the time for appeal, the Director or the Hearing Examiner may cause the action to be taken by the City.
- (3) If the Director or the Hearing Examiner deems it necessary to have the building secured as an interim measure for the protection of the public health and welfare while pending action, they may so order. If the owner is unable or unwilling to secure the building within forty-eight (48) hours, the Director or the Hearing Examiner may order the building secured by the City.
- (4) If the owner is unable to comply with the Director or Hearing Examiner's order within the time required, and the time for petition to the Superior court has passed, the owner may, for good and sufficient cause beyond his or her control, request in writing an extension of time. The Director or the Hearing Examiner may grant a reasonable extension of time after a finding that the delay was for good and sufficient cause. There shall be no appeal or petition from the Director's or the Hearing Examiner's ruling on an extension of time.

16.08.300 COSTS

- A. (1) The costs of abatement, repair, alteration or improvements, or vacating and closing, or removal or demolition, when borne by the City, shall be assessed against the real property upon which such costs were incurred unless paid. The Director or the Hearing Examiner shall forward such costs to the City Treasurer, who shall certify them to the County Treasurer for assessment on the tax rolls in accordance with RCW 35.80.
- (2) When necessary, bids for demolition shall be let only to a licensed contractor. All contract documents shall provide that the value of the materials and other salvage of the property shall be credited against the costs of the demolition. The contract documents may require the contractor to estimate the salvage value of the property and, by claiming the salvage, reduce the amount of his price accordingly. The contract price fixed by acceptance of the contract shall not be adjusted to reflect the actual salvage value. Such contracts may be let prior to the time for compliance or appeal, but shall not be binding or accepted until the order for demolition is final. The Director shall have the authority to sign the contract on behalf of the City.
- (3) There shall be charged against the owner and assessed against the property of any boarded-up building an annual inspection fee of One Hundred Twenty Dollars (\$120).

- (a) Such fee shall be payable at the time the building becomes a boarded-up building. The Hearing Examiner or Director shall order a refund of the proportional amount not due if the building is reoccupied or demolished. Subsequent annual fees shall be payable on or before the preceding annual fee has been exhausted.
 - (b) The Director or the Hearing Examiner may waive the inspection fee if the building does not remain a boarded-up building for more than six (6) months. In other cases, the Director or Hearing Examiner may reduce or modify the time and method of payment of the fee as the condition of the property or the circumstances of the owner may warrant.
- B. (1) Whenever a building is found to be unfit or substandard or a premises to be a nuisance and the cost of demolition, repair or abatement must be borne by the City, there shall be charged against the owner and assessed against the property the costs of all administrative proceedings before the Director and the Hearing Examiner including salaries, wages, material and other expenses incurred for inspecting, conducting hearings, or otherwise determining the status of the property.
- (2) The Director or the Hearing Examiner may modify the time or methods of payment of such expenses as the condition of the property and the circumstances of the owner may warrant. In cases of extreme hardship, such expenses may be waived.

16.08.310 PERMIT REQUIRED Any work including construction, repairs or alterations under this Chapter to rehabilitate any building or structure, may require a permit in accord with the provision of this Code.

16.08.320 RULES AND REGULATIONS The Director may make and promulgate such rules and regulations as will effectuate the purposes of this Chapter and do substantial justice.

16.08.330 VIOLATIONS It shall be unlawful and a violation of this Chapter to knowingly:

- (1) occupy or suffer to be occupied any building or premises ordered vacated;
- (2) fail to comply with any order issued pursuant to this Chapter; or
- (3) obstruct any officer or agent of the City of Lynnwood or other governmental unit in the enforcement of this Chapter. Violation of this Section is a gross misdemeanor.

16.08.340 EMERGENCIES The provisions of this Chapter shall not prevent the Director or any other officer of the City of Lynnwood or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property.

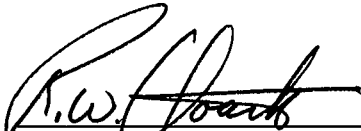
Section 2. SEVERABILITY If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 3. EFFECTIVE DATE This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.

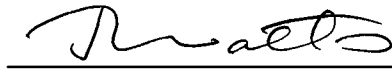
PASSED this 14th day of November, 1994, and signed in authentication of its passage this 15th day of November, 1994.


TINA ROBERTS, Mayor

ATTEST:


R. W. NOACK, City Clerk

APPROVED AS TO FORM:


Lynnwood City Attorney

PUBLISHED: