

CITY OF LYNNWOOD

ORDINANCE NO. 2284

City of Lynnwood

DEC 22 2000

SCANNED

**AN ORDINANCE PROVIDING FOR OPTIONAL MANDATORY REFUSE COLLECTION FOR PERSONS ALLOWING ACCUMULATION OF REFUSE AND AMENDING CHAPTER 5.08 LMC PERTAINING TO ACCUMULATION OF GARBAGE AND PROCEDURES UPON FAILURE TO REMOVE GARBAGE**

WHEREAS, regulation of common nuisance activities is a necessary government service necessary both to protect the public health, safety and welfare and to prevent harm to the public; and

WHEREAS, the current enforcement system for processing Code violations recognizes that the majority of citizens will voluntarily comply with the code requirements once they are aware of a violation on their property; and

WHEREAS, the current enforcement system should be changed to provide additional remedies to deal with the certain situations, namely, those involving repeat offenders and property owners who are unwilling to comply with the City's requirements against maintaining a nuisance or who allow refuse to accumulate; and

WHEREAS, it is appropriate that the Code should discourage repeat violations by imposing penalties and requirements, including mandatory garbage collection applicable to those who engage in repeat violations despite notices to comply with City regulations; and

WHEREAS, the City Council determines this ordinance is necessary and appropriate to the public health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

**Section 1. New Chapter.** A new chapter 7.06 of the Lynnwood Municipal Code is hereby enacted, to read as follows:

**CHAPTER 7.06**  
**OPTIONAL MANDATORY REFUSE COLLECTION**

**SECTIONS:**

7.06.010 DEFINITIONS

7.06.020 OPTIONAL MANDATORY REFUSE COLLECTION

- 7.06.030 NOTICE AND ORDER FOR MANDATORY REFUSE COLLECTION AND TO REMOVE REFUSE
- 7.06.040 CONDITIONS PRECEDENT TO ISSUANCE OF NOTICE AND ORDER FOR MANDATORY REFUSE COLLECTION
- 7.06.050 APPEAL OF ORDER FOR MANDATORY REFUSE COLLECTION
- 7.06.060 ORDER FOR MANDATORY REFUSE COLLECTION
- 7.06.070 BILLING FOR MANDATORY REFUSE COLLECTION
- 7.06.080 ENFORCEMENT OF PAYMENT
- 7.06.090 TERMINATION OF MANDATORY REFUSE COLLECTION
- 7.06.100 VIOLATIONS - PENALTY

**7.06.010 DEFINITIONS**

For the purpose of this Section and unless the context plainly requires otherwise, the following definitions are adopted:

- A. "Waste Management Company" means any authorized person or entity contracting with the City to dispose of solid waste from within the City or any commercial refuse collector authorized to continue collection of solid waste in newly annexed areas of the City pursuant to applicable law.
- B. "Garbage" means all putrescible solid and semi-solid wastes, including but not limited to animal and vegetable waste, except sewage and body wastes, and shall include all such substances from all public and private locations or establishments.
- C. "Rubbish" means all nonputrescible wastes, except sewage and body wastes, from all public and private locations or establishments.
- D. "Refuse" means garbage, rubbish, ashes, and all other putrescible and nonputrescible wastes except sewage and body wastes, from all public and private locations or establishments.
- E. "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.
- F. "Person Responsible for the Violation" means any person who has an interest in or resides on the property, whether as owner, lessee, tenant, occupant, or otherwise.
- G. "Repeat Violation" means a violation of the same regulation in any location by the same person, for which voluntary compliance previously has been sought or a notice of civil violation has been issued, within the immediately preceding twelve consecutive month period. A repeat violation may involve the same condition, action or omission as a previous violation.
- H. "Refuse Violation" means any violation of the Lynnwood Municipal Code relating to refuse, garbage or rubbish, including but not limited to maintaining or allowing the deposit of or accumulation of refuse, garbage or rubbish, and including but not limited to violations of LMC 5.08.090, LMC 7.04.030, LMC 7.04.040, Chapter 10.08 LMC, including LMC 10.08.200, and Chapter 7.12 LMC.

**7.06.020 OPTIONAL MANDATORY REFUSE COLLECTION.**

At the option of the City and pursuant to the provisions of this Chapter 7.06 LMC, a person may be placed on mandatory refuse collection.

**7.06.030 NOTICE AND ORDER FOR MANDATORY REFUSE COLLECTION AND TO REMOVE REFUSE**

A. **ISSUANCE OF NOTICE AND ORDER.** If a person maintains any refuse or allows any refuse to remain on a property, in violation of law, then in addition to any other remedy, the City's Nuisance Abatement Officer, or other person designated by the Mayor, may issue a written Notice and Order for Mandatory Refuse Collection and To Remove Refuse to the person responsible for the violation pursuant to the provisions of this Chapter 7.06 LMC.

B. **CONTENT**

The Notice and Order shall include the following:

1. The name and address of the person responsible for the violation; and
2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
3. A description of the violation and a reference to the provision(s) of the City regulation(s) which has been violated; and
4. The required corrective action and a date and time by which the correction must be completed. Except for emergency conditions, the date by which correction must occur shall be 14 days from the date of the notice and order; and
5. A statement that after the date and time by which correction must occur, the City may without further notice abate the unlawful condition in accordance with applicable City Code, and that the costs may be assessed against the person responsible for the violation and that costs may become a lien on the property; and
6. A statement that the City may without further notice place the person responsible for the violation on mandatory refuse collection in accordance with Chapter 7.06 of the Lynnwood Municipal Code; and
7. A statement that failure to pay for mandatory garbage collection may result in discontinuance of water service until mandatory garbage collection fees charges are paid; and that unpaid charges may become a lien on the property; and
8. Instructions on how to appeal the Notice and Order.

The Notice and Order may be combined with or be issued in conjunction with any other remedy the City deems appropriate.

C. **SERVICE OF NOTICE AND ORDER**

The Notice and Order shall be served on the person responsible for the violation, either personally or by mailing a copy of the Notice and Order by first class mail to such person at their last known address. If the person responsible for the violation cannot be personally served within Snohomish County and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the Notice and Order conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person

effecting the service, declaring the time and date of service, the manner by which the service was made, and, if by posting, the facts showing the attempts to serve the person personally or by mail.

**D. EXTENSION**

Extensions of the time specified in the Notice and Order for correction of the violation may be granted at the discretion of the applicable department director.

**7.06.040 CONDITIONS PRECEDENT TO ISSUANCE OF NOTICE AND ORDER FOR MANDATORY REFUSE COLLECTION**

Before a Notice and Order for Mandatory Garbage Collection may be issued, the following requirements must be met within the immediately preceding eighteen consecutive month period:

- (1) First Violation and Warning. A refuse violation of City code exists, and the City has (a) notified the person responsible for the violation of the violation to correct the violation, and (b) given warning to the person responsible for the violation, and the owner (if different from the person notified as responsible for the violation) that a repeat violation is grounds for issuance of an order for mandatory garbage pursuant to Chapter 7.06 LMC, that failure to pay for mandatory garbage may result in discontinuance of water service until mandatory garbage fees charges are paid; and that unpaid charges may become a lien on the property. Notice of a violation may either be by a written notice to the person responsible for a violation in any location by the same person, or be contained in or accompany a notice and order of civil violation, an infraction, or a criminal citation or complaint; and
- (2) Second Violation. More than fourteen days since the action taken in (2), a repeat violation of City code exists.

**7.06.050 APPEAL OF ORDER FOR MANDATORY REFUSE COLLECTION AND TO REMOVE REFUSE**

A notice and order for mandatory refuse collection and to remove refuse issued pursuant to LMC 7.06.030 may be appealed by filing an appeal within fourteen (14) days of the issuance of the notice and order. An appeal must be in writing signed by a person subject to the order, contain a brief statement of the reasons for requesting an appeal, and be accompanied by the filing fee. An appeal of a notice and order for mandatory refuse collection shall meet the requirements of and be processed under LMC 1.35.200—**PROCESS II: ADMINISTRATIVE DECISIONS—APPEAL TO HEARING EXAMINER.**

**7.06.060 ORDER FOR MANDATORY REFUSE COLLECTION**

If the requirements of this Chapter are met, and following any administrative appeals from the notice and order for mandatory refuse collection issued pursuant to LMC 7.06.030, the City may issue an order for mandatory refuse collection to the person notified as responsible for the violation resulting in the notice and order for mandatory

garbage, and the owner (if different from the person notified as responsible for the violation), and to the appropriate waste management company serving the area. The order is not appealable.

Upon receipt of the City's order for mandatory garbage, the waste management company shall place a residence or business on mandatory refuse collection. Such order of mandatory refuse collection shall continue until the City terminates the order in writing.

**7.06.070 BILLING FOR MANDATORY REFUSE COLLECTION**

- A. The waste management company shall bill the property owner, who shall be responsible to pay for mandatory refuse collection services required pursuant to Chapter 7.06 LMC.
- B. All refuse disposal charges shall be billed regularly in accordance with the standard practices of the waste management company. Payment shall be due no later than two weeks after the date of billing.

**7.06.080 ENFORCEMENT OF PAYMENT**

- A. If payment for mandatory refuse collection and/or other costs to remove refuse is not made, the waste management company may take any enforcement action authorized by law, but shall not discontinue mandatory refuse service without written authorization from the City.
- B. The City may elect to discontinue water and sewer service to the property if a bill for mandatory refuse collection and/or costs to remove refuse becomes 90 days past due. Service will resume upon payment of any outstanding costs and waste management bills.

**7.06.090 TERMINATION OF MANDATORY REFUSE COLLECTION**

A waste management company shall not terminate mandatory refuse collection for any reason, including non-payment by property owner, without express authorization from the City. The City may authorize termination of mandatory refuse collection under the following circumstances:

- A. The residence or business has not violated applicable laws concerning allowing or maintaining refuse or allowing or maintaining a nuisance on the property, for twelve consecutive months; or
- B. The City determines for good cause that a residence or business is no longer a threat to the health, safety, and well being of the community. Good cause includes receipt of adequate and guaranteed assurance satisfactory to the City that repeat violations concerning refuse will not occur.

The order for mandatory refuse collection shall be reviewed by the Code Enforcement Officer at least every six months or upon application by the property owner for termination of mandatory refuse collection.

**7.06.100 VIOLATIONS- PENALTY**

Any person, firm, or corporation violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction, shall be fined not more than five hundred dollars or sentenced up to ninety days in jail, or both. Where the violation is of a continuing nature, then each day during which the violation continues shall constitute a separate violation of this chapter.

**Section 2. Amendment.** LMC 5.08.090

ACCUMULATION OF GARBAGE, RUBBISH--SERVICE OF NOTICE is hereby amended to read as follows:

If any person allows, permits, or maintains any accumulation of refuse, ashes, garbage, filth, cans, or rubbish to remain on property owned, controlled, or occupied by him the person such that a condition detrimental to the health and welfare shall be deemed by the City Nuisance Abatement Officer, or other person designated by the Mayor, Health Officer or agent to exist, then said Health Officer or person agent shall cause written notice thereof to be served on said person, ~~by mailing the same to said person, postage prepaid, at the address of said property.~~ The notice shall be served on the person responsible for the violation, either personally or by mailing a copy of the notice by certified or registered mail, return receipt requested, to such person at their last known address. If the person responsible for the violation cannot be personally served within Snohomish County and if an address for mailed service cannot be ascertained, notice shall be served by posting a copy of the notice conspicuously on the affected property or structure.

**Section 3. Amendment** . LMC 5.08.100 PROCEDURE UPON FAILURE TO

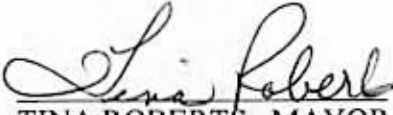
REMOVE ACCUMULATED RUBBISH AFTER NOTICE is hereby amended to read as follows:

If any person, after three days have elapsed from the service of notice as provided in Section 5.08.090, fails to remove said accumulation of ashes, garbage, filth, cans, glass or rubbish, then the City Nuisance Abatement Officer, or other person designated by the Mayor, ~~Health Officer or agent~~ may direct any licensee under this chapter to remove such accumulated materials, and to render a statement of the charges therefor, ~~determined in accordance with the then approved schedules of fees,~~ to such owner or occupant; and such licensee may thereafter file with the Finance Director ~~City Clerk and the Auditor of Snohomish County~~ notice of such service, and the fees charged therefor, in the manner provided for filing notice of labor and material liens, and thereupon such charges shall become a lien upon the property served. ~~Such lien may be subject to collection or foreclosure in the manner of foreclosing labor and material liens under the laws of the State of Washington.~~ who may recover costs in accordance with applicable law.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter.

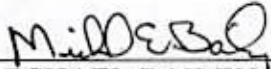
**Section 5. Effective Date.** This Ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.

PASSED this 22 day of November, 1999, and signed in authentication of its passage this 23 day of November, 1999.

  
TINA ROBERTS, MAYOR

ATTEST:

APPROVED AS TO FORM:

  
MICHAEL BAILEY  
Finance Director

  
JOHN P. WATTS  
Lynnwood City Attorney

PUBLISHED: