

To: Mayor and Council and to Kurt Sacha, City Manager

From: Jim McNamara, City Attorney

Re: Amendments to LMC 16.32

Date: 2/7/19

If you'll recall the City Council amended LMC 16.32 in 2017 to better provide City staff with the tools to address nuisance properties that pose a hazard to public health.

The primary motive in using the unfit dwelling, building, structure and premise code over the standard judicial abatement process is its mechanism for assessing costs for abatement. Code cities are limited to \$2,000 equal rank liens. The unfit dwelling, building, structure and premise code does not contain that limitation. "The assessment shall constitute a lien against the property which shall be of equal rank with state, county and municipal taxes". RCW 35.80.030 (1) h.

Staff has been successful in cleaning up several properties, and continues an approach that first seeks voluntary compliance. In some cases the property in question is beyond repair, or the owner fails to take action to address the problems. However, in the course of enforcement actions staff realized that LMC 16.32, as written, fails to clearly address the situation when the hazard to public health is posed by an accumulation of debris on "premises" such as vacant land or yards, as opposed to a structure. You will see that there are a large number of additions of the word "premise" for clarity and to mirror its inclusion within the RCW.

The RCW consistently uses the words "dwelling, building, structure, or premises is unfit for human habitation or other use". Therefore that language has been used throughout the suggested amendments to bring consistency to the code.

For example, LMC 16.32.010 is proposed to be amended to read:

16.32.010 Application.

The provisions of this chapter shall apply to all dwelling, buildings, structures, and premises or portions thereof used or designed or intended to be used for human habitation or for any other purpose.

Likewise LMC 16.32.046, the definition of "abate" is clarified to read:

"Abate" shall mean to put an end to, or otherwise diminish the intensity of, any condition causing a dwelling, structure, building, and premises to be dangerous or unfit for occupancy and/or use

Those areas subject to being declared a nuisance are addressed as:

16.32.235 Declared nuisance – Abatement required.

All buildings, dwellings, structures and/or premises or portions thereof which are determined to be substandard as defined in this chapter are nuisances and shall be abated by repair, rehabilitation, vacation, demolition, abatement or removal, as hereinafter provided.

To address this matter, and to ensure that the City can recover its abatement costs via a lien on the property, several amendments to LMC 16.32 are proposed. Several areas that define/describe the conditions which are considered violations have been amended to include the RCW's exact wording.

In addition the provision in LMC 16.32.285 mirrors the provision in RCW 35.80.030(1) that "The assessment shall constitute a lien against the property which shall be of equal rank with state, county and municipal taxes"

Finally, one change of note regarding sanitation standards includes new language providing:

16.32.407 Non-Residential Facilities.

The owner of any building or property used for human occupancy, employment, recreation, business, or where people congregate, situated within the city and abutting on any street, alley or right-of-way, in which there is now or shall hereafter be located public water of the city, is required at his sole expense to connect directly to the public water, in accordance with the provisions of this chapter and Chapter 15.44 LMC. Every business shall be provided with a water closet and a lavatory made accessible to employees and customers in accordance with. IBC Table 2902.1 and UPC 601.2