

ORDINANCE NO. 2020-\_\_ OF THE CITY OF LAKE WORTH BEACH, FLORIDA, REPEALING ORDINANCE 2017-12 WHICH AMENDED DIVISION 1 "CHRONIC NUISANCE SERVICES" OF CHAPTER 2 "ADMINISTRATION", ARTICLE XIX "CHRONIC NUISANCE PROPERTY CODE", TO PROVIDE FOR ADDITIONAL VIOLATIONS RELATING TO OVERDOSING AND CODE ENFORCEMENT, POSTING NOTICES, ENTERING INTO AGREEMENTS WITH PROPERTY OWNERS, AND ADDITIONAL PENALTIES AND REPLACING IT WITH A NEW ORDINANCE TO INSERT PROVISIONS UNINTENTIONALLY REMOVED FROM ORDINANCE 2017-12 AND PROVIDING FOR ADDITIONAL NUISANCE ACTIVITY; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth Beach, Florida (the "City"), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City passed Ordinance 2017-12 on August 1, 2017, which amended Chapter 2, Article XIX "Chronic Nuisance Property Code", Division 1 "Chronic nuisance services" of the Code of Ordinances that, among other things, expanded activities that are nuisance activities to include properties where there are calls for service to assist individuals displaying symptoms of overdosing on a controlled substance, and in instances where there has been a failure to correct code violations on properties more than thirty (30) days after the special magistrate entered an order regarding the same; and

WHEREAS, although the correct ordinance was passed on first reading, the incorrect version was inadvertently adopted on second reading; and

WHEREAS, this ordinance repeals Ordinance 2017-12 adopted on second reading and adopts a new version which includes the changes approved on first reading of Ordinance 2017-12 with additional changes that makes repeat code violations and repeat property remediation chronic nuisances; and

WHEREAS, the City Commission has reviewed the recommended revisions and has determined that it is in the best interest of the public health, safety, and general welfare of the City to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The foregoing "WHEREAS" clauses are true and correct and are hereby ratified and confirmed by the City Commission.

47 Section 2. Ordinance 2017-12, is hereby REPEALED in its entirety and is REPLACED  
48 with a new ordinance as follows.

49  
50 Section 3. Chapter 2 “Administration”, Article XIX, “Chronic Nuisance Property Code”,  
51 Division 1 “Chronic Nuisance Services”, is hereby amended as follows (deleting is  
52 ~~stricken through~~ and adding is underlined):

53  
54 **Sec. 2-201 – Pattern of nuisance activity.**

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56 (a) *Nuisance activity.* Nuisance activity means any activities relating to the following  
57 violations, whenever engaged in by property owner, agent, tenant, or invitee of the  
58 property owner or tenant:

- 59  
60 (1) Chapter 5 – Alcoholic beverages.  
61 (2) Chapter 15, article I, sections 15-24 through 15-24.10 – Noise Control  
62 regulations.  
63 (3) Chapter 15, article V - Sexual offenders’ & sexual predators’ residence.  
64 (4) F.S. § 767.12—Dangerous dogs.  
65 (5) F.S. § 784.03—Battery; felony battery.  
66 (6) F.S. § 784.041—Felony battery.  
67 (7) F.S. § 784.045—Aggravated battery.  
68 (8) F.S. § 790.01—Carrying concealed weapons.  
69 (9) F.S. § 790.10—Improper exhibition of dangerous weapons or firearms.  
70 (10) F.S. § 790.15(1)—Discharging firearm in public.  
71 (11) F.S. § 796.06—Renting space to be used for prostitution.  
72 (12) F.S. § 796.07—Prostitution.  
73 (13) F.S. § 800.03—Exposure of sexual organs.  
74 (14) F.S. § 806.13—Criminal mischief.  
75 (15) F.S. § 810.08—Trespass in structure or conveyance.  
76 (16) F.S. § 810.09—Trespass on property other than structure or conveyance.  
77 (17) F.S. § 812.014—Theft.  
78 (18) F.S. § 812.019—Dealing in stolen property.  
79 (19) F.S. § 812.173—Conveyance business security.  
80 (20) F.S. § ~~824~~823.01—Nuisance.  
81 (21) F.S. § 828.12—Cruelty to animals.  
82 (22) F.S. § 843.01—Resisting officer with violence.  
83 (23) F.S. § 843.02—Resisting officer without violence.  
84 (24) F.S. § 856.011—Disorderly intoxication.  
85 (25) F.S. § 856.015—Open house parties.  
86 (26) F.S. § 856.021—Loitering or prowling.

- 87 (27) F.S. § 856.022—Loitering or prowling in close proximity to children.
- 88 (28) F.S. § 870.01—Affrays and riots.
- 89 (29) F.S. ch. 874—Criminal gang enforcement and prevention.
- 90 (30) F.S. § 877.03—Breach of the peace; disorderly conduct.
- 91 (31) F.S. ch. 893—Any offense under the Florida Comprehensive Drug Abuse
- 92 Prevention and Control Act.
- 93 (32) Any other offense under state or federal law that is punishable by a term of
- 94 imprisonment exceeding one (1) year.
- 95 (33) A call for service to property for law enforcement, fire, medic, or other
- 96 emergency personnel to assist an individual who displays the symptoms of an
- 97 overdose of a controlled substance.
- 98 (34) Failure to comply with a code enforcement order entered by the special
- 99 magistrate.
- 100 (35) A repeat violation code enforcement order entered by the special magistrate.
- 101 (36) Chapter 12, Article II “Lots and Lands Constituting Nuisances”- repeated
- 102 abatement by the city of nuisances on property.

103  
104 (b) *Pattern of nuisance activity.* Real property shall be deemed to exhibit a pattern of  
105 nuisance activity if:

106 (1) The city's law enforcement has responded to three (3) or more nuisance  
107 activities at the property within thirty (30) days;

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109 (2) The city's law enforcement has responded to seven (7) or more nuisance  
110 activities at the property within six (6) months;

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112 (3) The city's law enforcement, fire, medic or other emergency personnel (or any  
113 combination thereof) has responded to two (2) or more calls for service within thirty  
114 (30) days or three (3) or more calls for service within six (6) months, to assist an  
115 individual who displays the symptoms of an overdose of a controlled substance;

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117 ~~(3)~~ (4) An alcoholic beverage establishment that employs private security is located  
118 on the property and the city's law enforcement has responded to five (5) or more  
119 nuisance activities at the property within thirty (30) days or twenty (20) or more  
120 nuisance activities at the property within six (6) months; ~~or~~

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122 (5) There is a failure to correct code violations on the property thirty (30) days after  
123 the date given by the special magistrate in any order entered pursuant to chapter  
124 2, article VI of this code;

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126 (6) There are two (2) or more repeat violations on the property within a three (3)  
127 year period and the special magistrate has entered orders on the repeat violations;

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129 (7) The city has remediated/abated a nuisance under Chapter 12, Article II "Lots  
130 and Lands Constituting Nuisances" on more than two (2) occasions in a three (3)  
131 year period; or

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133 ~~(4)~~(8) As otherwise provided by this code.

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135 (c) *Construction and application.* Pattern of nuisance activity shall not be construed  
136 to include:

137 (1) A nuisance activity where that does not arise from the conduct of the property  
138 owner, agent, tenant, or invitee of the property owner, agent or tenant is the victim  
139 of a crime and called for service; or

140  
141 (2) A complaint or call for service to which the city's law enforcement, fire, medic  
142 and/or other emergency personnel responded and it was the city determined that  
143 no violation was committed.

144  
145 (d) *Separate occurrences.* For purposes of this article, ~~each day~~ every time that  
146 law enforcement responds to a nuisance activity at the property shall be a separate  
147 occurrence.

148  
149 **Sec. 2-202 – Declaration of chronic nuisance property; action plan.**

150  
151 (a) *Declaration of chronic nuisance property.* If a pattern of nuisance activity exists upon  
152 real property, the city, through its code enforcement division or the city manager, may  
153 declare the property to be a chronic nuisance. The city's declaration of chronic  
154 nuisance property shall constitute a notice of violation which, if unaddressed by  
155 agreement as set forth herein, may be prosecuted by the city before the city's special  
156 magistrate. The city shall notify the property owner of the declaration of chronic  
157 nuisance property in accordance with subsection 2-208(a). The declaration of chronic  
158 nuisance property shall contain at least the following information:

- 159 (1) A reference to chapter 2, article XIX (the "City of Lake Worth Chronic Nuisance  
160 Property Code");
- 161 (2) The address and parcel control number of the property;
- 162 (3) The dates that the nuisance activities occurred at the property;
- 163 (4) A description of the nuisance activities;

- 164 (5) A statement that the property owner is required to (a) enter into an agreement  
165 with the city which will incorporate an action plan to address and eliminate the  
166 nuisance activity on the property, hereinafter "Chronic Nuisance Abatement  
167 Agreement" the city with a written action plan outlining the specific measures that  
168 the property owner will take to curtail or eliminate the re-occurrence of nuisance  
169 activities on the property or (b) request a hearing before the special magistrate  
170 as set forth in section 2-204203 to challenge the declaration. The statement shall  
171 give the property owner A statement that the action plan or the request for hearing  
172 must be provided to the city's assigned contact, (the "contact"), as set forth in the  
173 declaration, no later than fifteen (15) days from the date of the declaration of  
174 chronic nuisance property to advise the City's assigned contact in writing of the  
175 property owner's decision. The city's contact may include a representative from  
176 the code compliance division, the city's attorney office or other designee;
- 177 (6) A statement that if the property owner fails to timely request a hearing, the  
178 property owner shall be deemed to have waived the right to contest the  
179 declaration of chronic nuisance property;
- 180 (7) A statement that failure to enter into a Chronic Nuisance Abatement Agreement  
181 with the city provide the city with a written action plan may result in the entry of a  
182 chronic nuisance service order by the special magistrate;
- 183 (8) A statement that the costs of any chronic nuisance services provided by the city  
184 to a property that has been declared to be a chronic nuisance may be levied  
185 against the property as a non-ad valorem assessment superior to all other private  
186 rights, interests, liens, encumbrances, titles and claims upon the property and  
187 equal in rank and dignity with a lien for ad valorem taxes; ~~and~~
- 188 (9) A statement that unpaid assessments may be certified to the tax collector for  
189 collection pursuant to the uniform method provided in F.S. § 197.3632-; and
- 190 10) A warning statement that the notice posted pursuant to section 2-208 cannot be  
191 removed except with written permission of the city.
- 192 (b) *Development of action plan.* The property owner shall enter into a Chronic Nuisance  
193 Abatement Agreement with the city which will incorporate provide the city's contact  
194 with a written action plan outlining the specific measures that the property owner will  
195 take to curtail or eliminate the re-occurrence of nuisance activities at the property.  
196 The Chronic Nuisance Abatement Agreement will contain a timetable for corrective  
197 action and shall be executed by the property owner. The property owner shall provide  
198 the Chronic Nuisance Abatement Agreement action plan to the city's contact no later  
199 than fifteen (15) thirty (30) days from the date of the declaration of chronic nuisance  
200 property. The Chronic Nuisance Abatement Agreement, once executed by the city  
201 manager or designee on behalf of the city, shall be recorded in the official records of  
202 Palm Beach County, Florida. Failure to enter into a Chronic Nuisance Abatement  
203 Agreement with the city may result in the entry of a chronic nuisance service order

204 ~~being issued by the special magistrate, provide the city's contact with a timely action~~  
205 ~~plan shall be a violation of this article.~~

206 ~~(c) Adequacy and implementation of action plan. If the city determines that the action~~  
207 ~~plan is adequate to curtail or eliminate the re-occurrence of nuisance activities on the~~  
208 ~~property, the city shall notify the property owner by first class mail. The city shall~~  
209 ~~establish a reasonable time period not exceeding forty-five (45) days from the date~~  
210 ~~that the action plan is determined to be adequate to implement the action plan. The~~  
211 ~~city may extend the time period beyond the forty-five (45) days if additional time is~~  
212 ~~necessary to implement the action plan. Failure to implement the action plan within~~  
213 ~~the time period established by the city shall be a violation of this article. If the property~~  
214 ~~owner implements the action plan within the time period established by the city, the~~  
215 ~~declaration of chronic nuisance will be closed and no further action shall be required,~~  
216 ~~except that the city may require the property owner to revise the action plan in the~~  
217 ~~event that a nuisance activity re-occurs within twelve (12) months of the date of the~~  
218 ~~declaration, and the special magistrate shall be deemed to have continuing~~  
219 ~~jurisdiction over the property.~~

220 ~~(d) Revision of inadequate action plan. If the city determines that the action plan is not~~  
221 ~~adequate to curtail or eliminate the re-occurrence of nuisance activities on the~~  
222 ~~property, the city may require the property owner to revise the action plan. The~~  
223 ~~property owner shall provide the revised action plan to the city no later than ten (10)~~  
224 ~~days from the date that the action plan is determined to be inadequate. Failure to~~  
225 ~~revise the action plan or not provide the city with a timely revised action plan shall be~~  
226 ~~a violation of this article. The provision of an inadequate action plan on two (2)~~  
227 ~~consecutive occasions shall be a violation of this article and may result in a chronic~~  
228 ~~nuisance service order against the property.~~

229 ~~(e) Factors determining adequacy of The action plan. The type of abatement action~~  
230 ~~shall depend on the type of criminal activity occurring at the property. Types of~~  
231 ~~abatement action to be considered in determining the adequacy of an action plan, to~~  
232 ~~be incorporated into a Chronic Nuisance Abatement Agreement may include, but~~  
233 ~~shall not be limited to:~~

234 (1) Commencement of an eviction action pursuant to F.S. ch. 83, to remove those  
235 individuals engaged in the nuisance activity from the property;

236 (2) Implementation of crime prevention through environmental design (CPTED)  
237 measures;

238 (3) Frequency of site visits and inspections at various times of both day and night;

239 (4) Hiring of property management;

240 (5) Hiring of private security;

241 (6) Installation of security cameras with recording capabilities;

242 (7) Use of a written lease agreement;

- 243 (8) Criminal background checks for prospective tenants and lease renewals;
- 244 (9) Posting of "no trespassing" signs at the property;
- 245 (10) Written documentation of all efforts to curtail or eliminate the re-occurrence of
- 246 nuisance activities on the property;
- 247 (11) Any other action that the city determines is reasonably sufficient to curtail or
- 248 eliminate the re-occurrence of nuisance activities on the property.

249 (d) Modification of the action plan. The city will periodically monitor the property to  
250 assure compliance for a period of one (1) year following execution of the Chronic  
251 Nuisance Abatement Agreement. During that time, the parties may agree to modify the  
252 Chronic Nuisance Abatement Agreement when it is demonstrated by either party that (a)  
253 modification will improve the action plan or (b) the action plan is not adequate to curtail  
254 or eliminate the re-occurrence of nuisance activities on the property. If the property owner  
255 refuses to modify the Chronic Nuisance Abatement Agreement requested by the city, then  
256 the city may refer the matter to the special magistrate for entry of a chronic nuisance  
257 service order.

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259 (e) Termination of the action plan. If the property owner complies with the Chronic  
260 Nuisance Abatement Agreement as determined by the city, and the nuisance has been  
261 abated, the city will issue and record a notice of compliance, and no further action shall  
262 be required from the property owner. The city may require the property owner to enter  
263 into a new agreement if a nuisance activity re-occurs on the property.

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265 **Sec. 2-203. - Notice of violation.**

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267 ~~If the property owner fails to satisfy any requirement of this article, the city shall notify~~  
268 ~~the property owner in accordance with subsection 2-208(a). The notice of violation~~  
269 ~~shall contain at least the following information:~~

- 270 ~~(1) The address and parcel control number of the property;~~
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- 272 ~~(2) A description of the facts constituting a violation of this article;~~
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- 274 ~~(3) A statement that the property has been declared to be a chronic nuisance;~~
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- 276 ~~(4) Time to comply and the date, time, and location of a hearing should the~~  
277 ~~owner fail to timely comply with the notice;~~
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- 279 ~~(5) A statement that unless the property owner timely complies with this article~~  
280 ~~or attends the hearing before the special magistrate, the property owner~~  
281 ~~shall be deemed to have waived the right to contest the notice of violation~~  
282 ~~and a chronic nuisance service order may be entered against the property;~~

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~~(6) A statement that the cost of any unpaid chronic nuisance services provided by the city may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, title land claims upon the property and equal in rank and dignity with alien for ad valorem taxes; and~~

~~(7) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.~~

**Sec. 2-~~204~~203 – Hearings; waiver.**

(a) Request for hearing. If the property owner refuses to timely enter into a Chronic Nuisance Abatement Agreement, does not respond to notices issued by the city, or subsequently violates the terms of an agreement, the City may prosecute its declaration of chronic nuisance property or the violation of the agreement at a hearing before the city’s special magistrate. On the other hand, a A property owner may request a hearing before the special magistrate upon receipt of a declaration of chronic nuisance property. A request for hearing shall be filed with the city and shall:

- (1) Be in writing;
- (2) Provide a short, plain statement identifying the factual, procedural or legal error upon which the request for hearing is based; and
- (3) Include a copy of the declaration of chronic nuisance property or otherwise provide the owner's name and mailing address and the address of the property that has been declared a chronic nuisance.

(b) Time for filing a request for hearing. A request for hearing shall be filed with by the city within fifteen (15) days from the deadline for entering into a Chronic Nuisance Abatement Agreement or from the date the city notified the property owner that a violation of the agreement occurred. date of the declaration of chronic nuisance property. It may be filed by the property owner within fifteen (15) days of the date of the declaration of chronic nuisance property.

(c) Waiver of right to contest. If the owner of a chronic nuisance property fails to timely respond to city notices or file a timely request for hearing, the property owner shall be deemed to have waived the right to contest the declaration of chronic nuisance property.

~~(d) Hearing by the special magistrate. Upon receipt of a timely request or upon notice that a notice of violation has not been complied with, the~~ The city shall schedule a hearing before the special magistrate. The hearing shall be limited to a review of the record or evidence upon which the city based its declaration of chronic nuisance property. The property owner shall have the right to challenge the declaration of



323 chronic nuisance property. In the event the hearing pertains to a violation of the  
324 Chronic Nuisance Abatement Agreement, the hearing shall be limited to the failure  
325 by the property owner to implement the action plan and/or adhere to the requirements  
326 of the Chronic Nuisance Abatement Agreement. The city and the property owner  
327 shall be allowed to present evidence on the issue of the violation of the Chronic  
328 Nuisance Abatement Agreement. A hearing to challenge a declaration of chronic  
329 nuisance property shall be limited to the issue of whether or not a pattern of nuisance  
330 activity exists upon the subject property and what action plan shall be required, if any.  
331 A hearing to challenge a notice of violation regarding the action plan shall be limited  
332 to whether or not the action plan is adequate to curtail or eliminate the re-occurrence  
333 of nuisance activities on the property and/or whether the action plan was properly and  
334 timely implemented. Hearings shall be conducted as follows:

335 (1) The special magistrate shall adopt rules, as necessary, for the conduct of the  
336 hearings. All hearings and proceedings shall be open to the public and minutes  
337 shall be kept. All testimony shall be taken under oath and shall be recorded.

338 (2) Formal rules of evidence shall not apply, but fundamental due process shall be  
339 observed and shall govern the proceedings. The special magistrate may consider  
340 any relevant evidence. All evidence of a type commonly relied upon by  
341 reasonably prudent persons in the conduct of their affairs shall be admissible  
342 whether or not such evidence would be admissible in a state court.

343 (3) Each party shall have the following rights:

- 344 a. To call and examine witnesses.  
345 b. To introduce documentary evidence, exhibits, or physical evidence.  
346 c. To cross examine opposing witnesses on any relevant matter.  
347 d. To impeach any witness.  
348 e. To submit rebuttal evidence.  
349 f. To be represented by counsel.

350 (4) All findings of the special magistrate shall be based on a preponderance of the  
351 evidence. Hearsay evidence may be used for the purpose of supplementing or  
352 explaining other evidence, but it shall not be sufficient in itself to support a finding  
353 unless it would be admissible in a civil action.

354 (5) At the conclusion of the hearing, the special magistrate shall issue findings of fact  
355 and conclusions of law with respect to the issues before it.

356 (e) *Decision of the special magistrate.* After reviewing the testimony and evidence  
357 presented, the special magistrate shall either uphold or reject the declaration of  
358 chronic nuisance property or the notice of violation, pertaining to the Chronic  
359 Nuisance Abatement Agreement, as appropriate. The decision of the special  
360 magistrate shall be in writing and shall be deemed final. If the special magistrate  
361 upholds the declaration of chronic nuisance property, the special magistrate shall

362 enter a chronic nuisance service order as discussed below. If the special magistrate  
363 finds that there was a violation of the Chronic Nuisance Abatement Agreement, then  
364 the special magistrate may enter an order consistent with the Chronic Nuisance  
365 Abatement Agreement and/or authorize the city to seek any remedies provided under  
366 the law. an order establishing the requirements of the action plan, providing a  
367 reasonable time to implement the action plan, and setting a hearing date and time to  
368 consider the entry of a chronic nuisance service order if the action plan is not timely  
369 implemented. If the special magistrate upholds the notice of violation, the special  
370 magistrate shall immediately enter a chronic nuisance service order in accordance  
371 with section 2-205. If the special magistrate rejects either the declaration of chronic  
372 nuisance property or the notice of violation regarding the Chronic Nuisance  
373 Abatement Agreement, the special magistrate shall identify the factual, procedural or  
374 legal error upon which the decision is based. An order rejecting the city's declaration  
375 of chronic nuisance property shall not bar the city from recommencing the chronic  
376 nuisance process. An order rejecting the notice of violation regarding the Chronic  
377 Nuisance Abatement Agreement does not bar the city from re-citing the property  
378 owner for future violations of the agreement.

379 **Sec. 2-205204. – Entry of chronic nuisance service order.**

- 380 (a) *Chronic nuisance service order.* If the special magistrate upholds the declaration of  
381 chronic nuisance property, determines after a hearing that there has been a failure to  
382 provide or implement an adequate action plan or otherwise finds that a violation exists  
383 as set forth in the notice of violation, the special magistrate shall enter a chronic  
384 nuisance service order. The city shall provide a copy of the chronic nuisance service  
385 order to the property owner by first class mail. The chronic nuisance service order  
386 shall:
- 387 (1) Enter findings of fact establishing a pattern of nuisance activity and violation of  
388 this article;
  - 389 (2) Authorize the city to provide chronic nuisance services to the property;
  - 390 (3) Authorize the city to bill the costs of any chronic nuisance services to the owner  
391 of the chronic nuisance property;
  - 392 (4) Authorize the city to require the owner of the chronic nuisance property to  
393 implement reasonable and specific measures that the property owner must take  
394 to curtail or eliminate the re-occurrence of nuisance activities on the property;
  - 395 (5) Authorize the city to seek appropriate judicial action (e.g., an injunction) against  
396 the property owner to close the property until specific measures are taken by  
397 either the city or the property owner to curtail or eliminate the nuisance activities  
398 on the property.
  - 399 (5) Provide for the mailing of a copy of the chronic nuisance service order by first  
400 class mail to any mortgagee of record. Failure to provide a copy of the chronic

401 nuisance service order to a mortgagee of records shall not operate to release or  
402 discharge any obligation under this article or otherwise affect the validity of a  
403 chronic nuisance service order;

404 (6) Provide for the recording of a certified copy of the chronic nuisance service order  
405 in the public records; and

406 (7) Provide for continuing jurisdiction over the chronic nuisance property.

407 (b) *Duration of chronic nuisance service order.* The chronic nuisance order entered in  
408 accordance with this section shall terminate if there have been no nuisance activities  
409 at the property for one (1) year.

410 **Sec. 2-205. - Appeal of Orders of Special Magistrate.**

411 The property owner or the city may appeal a final order of the special magistrate to the  
412 circuit court of Palm Beach County. Such an appeal shall not be a hearing de novo, but  
413 shall be limited to appellate review of the record created before the special magistrate.  
414 An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

415 **Sec. 2-206. - Abatement of chronic nuisances; provision of services;**  
416 **apportionment.**

417 (a) *Abatement by city.* The property owner is responsible for abatement of nuisances on  
418 the property. In those circumstances when city staff, in consultation with the city  
419 attorney's office, determines that conditions exist on the property that constitute  
420 health and safety issues, and the property owner has not taken remedial action ¶the  
421 city may abate chronic nuisances on real property by providing chronic nuisance  
422 services to curtail or eliminate the re-occurrence of nuisance activities. The costs of  
423 such chronic nuisance services shall be billed to the property owner and such costs  
424 may be collected by the city by any legal means.

425 (b) *Apportionment.* Chronic nuisance service costs shall be entirely apportioned to the  
426 assessed real property receiving the chronic nuisance service.

427 **Sec. 2-207. – Establishment of Costs; billing of costs; special assessment; uniform**  
428 **method.**

429 a) *Chronic nuisance service costs.* All chronic nuisance service costs shall be  
430 established based upon the actual costs incurred by the city.

431 (b) *Billing of chronic nuisance service costs.* The city shall bill all chronic nuisance service  
432 costs to the owner of the chronic nuisance property by first class mail to the address  
433 listed on the ad valorem tax roll. The bill shall contain at least the following  
434 information:

435 (1) The address and parcel control number of the chronic nuisance property;

- 436 (2) The date of each chronic nuisance service;
- 437 (3) A description of each chronic nuisance service;
- 438 (4) The amount of the bill for each chronic nuisance service;
- 439 (5) A statement that the total amount of the bill shall be paid to the city within thirty  
440 (30) days from the date of the bill and that any chronic nuisance service cost  
441 which has not been paid within thirty (30) days from the date of the bill shall be  
442 delinquent;
- 443 (6) A statement that any unpaid chronic nuisance service costs will be levied against  
444 the property as a non-ad valorem assessment superior to all other private rights;  
445 interests, liens, encumbrances, title and claims upon the property and equal in  
446 rank and dignity with a lien for ad valorem taxes; and
- 447 (7) A statement that unpaid assessments may be certified to the tax collector for  
448 collection pursuant to the uniform method provided in F.S. § 197.3632.
- 449 (c) *Special assessment; uniform method.* The total amount of the bill shall be paid to the  
450 city within thirty (30) days from the date of the bill. Unless payment is made within  
451 thirty (30) days from the date of the bill, the city commission may, by the adoption of  
452 a resolution levying such charges, assess against the property a lien in the amount  
453 of the charges outstanding, or such lesser amount as the city commission shall decide  
454 is just and fair. Assessment of liens levied in this manner shall be filed in the office of  
455 the city clerk and in the public records of the county as a lien against the property and  
456 shall be prior in dignity to all other liens against the property, save and except a lien  
457 for taxes. Such assessments shall bear interest at the legal rate and such liens may  
458 be foreclosed in the same manner in which mortgage liens are foreclosed.  
459 Assessments levied pursuant to this section may be certified to the tax collector for  
460 collection pursuant to the uniform method provided in F.S. § 197.3632.
- 461 (d) *Construction of chronic nuisance service cost.* Chronic nuisance service costs shall  
462 not include any amount attributable to general law enforcement activities or the  
463 general enforcement of municipal codes upon a property that has not been declared  
464 by the city to be a chronic nuisance and that has not been received a chronic nuisance  
465 service order from the special magistrate.

466 **Sec. 2-208. - Method of notice; construction.**

- 467 (a) *Notice.* All notices required by this article shall be provided to the property owner(s)  
468 consistent with the requirements for notice provided in F.S. § 162.12, regarding notices  
469 for code enforcement cases, except that if any notice sent by certified mail is not signed  
470 as received within fifteen (15) days after the date of mailing, notice may be provided by  
471 posting as described in F.S. § 162.12(2)(b). In addition, when the city provides notice by  
472 posting, removal of the posted notice without written approval from the city is prohibited.  
473 Notice by posting may run concurrently with, or may follow, an attempt or attempts to  
474 provide notice by hand delivery or by mail as set forth above. Evidence that an attempt

475 has been made to hand deliver or mail notice as provided above, together with proof of  
476 posting, shall be sufficient to show that the notice requirements of this part have been  
477 met, without regard to whether or not the owner actually received such notice.

478  
479 (b) *Construction of notice.* A property owner shall be deemed to have notice of a  
480 nuisance activity if that property owner: (1) has actual knowledge of the nuisance  
481 activity; (2) has received notice of the nuisance activity; (3) has reason to know about  
482 the nuisance activity; (4) knows about a fact related to the nuisance activity; or (5) is  
483 able to ascertain the existence of a nuisance by checking an official filing or recording.  
484 The lack of knowledge of, acquiescence, or participation in, or responsibility for a  
485 nuisance activity on the part of property owner shall not be a defense to any  
486 enforcement of this article.

487

488 **Sec. 2-209. - Change in title to chronic nuisance property.**

489 (a) *Purchase of judicial sale upon final judgment of foreclosure.* Every purchaser of a  
490 chronic nuisance property at judicial sale upon final judgment of foreclosure shall  
491 provide the city with an action plan consistent with the city's service order or the  
492 Chronic Nuisance Abatement Agreement entered into by the previous owner. ~~and~~  
493 The action plan shall be implemented ~~an action plan~~ no later than forty-five (45) days  
494 from the date of the sale.

495 (b) *Receivership.* Every trustee of a chronic nuisance property appointed after the entry  
496 of a chronic nuisance service order shall provide the city with an action plan  
497 consistent with the city's service order or the Chronic Nuisance Abatement  
498 Agreement entered into by the previous owner. ~~and~~ The action plan shall be  
499 implemented ~~the action plan~~ no later than forty-five (45) days from the date of  
500 appointment of receiver in any state or federal action at law.

501 (c) *Probate.* Every personal representative of an owner of a chronic nuisance property  
502 shall provide the city with an action plan consistent with the city's service order or the  
503 Chronic Nuisance Abatement Agreement entered into by the previous owner. ~~and~~  
504 The action plan shall be implemented ~~an action plan~~ no later than forty-five (45) days  
505 from the date of appointment. If the owner of the chronic nuisance property died  
506 intestate, beneficiaries of the estate shall be required to provide the city with an action  
507 plan and implement an action plan in a timeframe set by the city.

508 (d) *Other changes in title to chronic nuisance property.* An arms-length purchaser of a  
509 chronic nuisance property that has purchased the property after entry of a chronic  
510 nuisance service order for the property shall have ~~forty-five (45)~~ thirty (30) days from  
511 the date of closing or recording of the order, whichever occurs last, to provide the city  
512 with an action plan consistent with the city's service order or the Chronic Nuisance  
513 Abatement Agreement entered into by the previous owner. ~~and~~ The action plan shall  
514 be implemented within thirty (30) days. ~~the action plan.~~

515 (e) To facilitate the transfer of property that is the subject of a chronic nuisance service  
516 order or agreement, the city manager is authorized without the necessity of city

517 commission action, to modify Chronic Nuisance Abatement Agreements, or  
518 compromise a fine or assessment owed to the city, provided the city manager has  
519 reasonable assurance the nuisance conditions on the property will be remedied and  
520 will not re-occur under the new ownership.

521

522 **Sec. 2-210. - Registration of distressed vacant property.**

523 (a) *Registration by owner.* Every owner of a chronic nuisance property that is also  
524 distressed vacant property shall register with the city in accordance with subsection  
525 2-75.11(e).

526 (b) *Registration by foreclosing mortgagee.* Every foreclosing mortgagee of a chronic  
527 nuisance property that is also distressed vacant property shall register with the city in  
528 accordance with subsection 2-75.11(e).

529

530 **Sec. 2-211. - Construction of article.**

531 (a) *Levy of special assessments.* This article shall not be construed to limit the city from  
532 levying special assessments in accordance with this Code, as adopted by the city.

533 (b) *Monthly reinspection assessments.* This article shall not be construed to limit the city  
534 from imposing monthly reinspection assessments in accordance with chapter 2,  
535 article VI, of this Code.

536 (c) *Imposition of administrative fines.* This article shall not be construed to limit the city  
537 from imposing administrative fines in accordance with chapter 2, article VI, of this  
538 Code.

539 (d) *Nuisance abatement.* This article shall not be construed to conflict with the public  
540 nuisance abatement process in accordance with chapter 2, article VII, of this Code.

541 (e) *Exemptions.* This article shall not be construed to apply to property owned by the city  
542 or any other governmental entity.

543 (f) *Provision of this article supplement.* Nothing in this article shall be construed to limit  
544 the authority of the city to collect special assessments by any other method according  
545 to law.

546

547 Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion  
548 of this Ordinance is for any reason held invalid or unconstitutional by any court of  
549 competent jurisdiction, such portion shall be deemed a separate, distinct, and  
550 independent provision, and such holding shall not affect the validity of the remaining  
551 portions thereof.

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553 Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict  
554 herewith are hereby repealed to the extent of such conflict.

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Section 5. Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective on ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

- Mayor Pam Triolo \_\_\_\_\_
- Vice Mayor Scott Maxwell \_\_\_\_\_
- Commissioner Omari Hardy \_\_\_\_\_
- Commissioner Andy Amoroso \_\_\_\_\_
- Commissioner Herman Robinson \_\_\_\_\_

The Mayor thereupon declared this Ordinance duly passed on first reading on the \_\_\_ day of \_\_\_\_\_, 2020.

The passage of this Ordinance on second reading was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

- Mayor Pam Triolo \_\_\_\_\_
- Vice Mayor Scott Maxwell \_\_\_\_\_
- Commissioner Omari Hardy \_\_\_\_\_
- Commissioner Andy Amoroso \_\_\_\_\_
- Commissioner Herman Robinson \_\_\_\_\_

The Mayor thereupon declared this Ordinance duly passed and enacted on the \_\_\_ day of \_\_\_\_\_, 2020.

LAKE WORTH CITY COMMISSION

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:  
\_\_\_\_\_  
Deborah M. Andrea, City Clerk

599

600 APPROVED AS TO FORM AND  
601 LEGAL SUFFICIENCY:

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604 By: \_\_\_\_\_

605 Glen J. Torcivia

606 City Attorney

607 /phr

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