

Council Business Meeting

May 18, 2021

| | | |
|--------------------|---|-------------------------|
| Agenda Item | Second Reading of Ordinance No. 3196 relating to Chronic Nuisance Properties and amending Ashland Municipal Code 9.18.020 | |
| From | Katrina L. Brown | Assistant City Attorney |
| Contact | katrina.brown@ashland.or.us ; (541) 552-2105 | |

SUMMARY

This is the time set for Second Reading of proposed Ordinance No. 3196 relating to chronic nuisance properties and amending Ashland Municipal Code (AMC) 9.18.020. First Reading of the ordinance took place on May 4, 2021, and the Council approved it for Second Reading with no amendments. Proposed Ordinance No. 3196 would update several references to the Oregon Revised Statutes contained in AMC 9.18.020 and would expand the definition of chronic nuisance property to include two additional offenses. It would also extend the time period during which a property could be deemed a chronic nuisance from thirty (30) days to sixty (60) days.

POLICIES, PLANS & GOALS SUPPORTED

N/A

PREVIOUS COUNCIL ACTION

Conducted First Reading on May 4, 2021.

BACKGROUND AND ADDITIONAL INFORMATION

Over the past year, the City of Ashland (City) has received numerous complaints from residents regarding potential criminal activity and violations of the AMC at a couple of properties in the City. One of these properties is located in an affordable housing complex. In reviewing the tools available to address these complaints, staff discovered that several references to the Oregon Revised Statutes contained in the AMC section related to chronic nuisance properties were outdated. Proposed Ordinance No. 3196 is necessary to update AMC 9.18.020 to reflect changes made to ORS over the past five years. The ordinance also proposes to add two nuisance-related offenses found in the AMC to the definition of a chronic nuisance property and extend the time during which offenses can qualify as “chronic”. The additional offenses proposed for inclusion are AMC 9.08.060, nuisances affecting the public health, and AMC 9.12.020, keeping unenclosed junk out of doors. The timeframe would be extended from the current thirty (30) day period to sixty (60) days. These changes are necessary to ensure that the City has adequate tools to protect and enhance the livability of all of its neighborhoods, including those containing affordable housing.

FISCAL IMPACTS

N/A

STAFF RECOMMENDATION

Staff recommends that the City Council approve Second Reading of Ordinance No. 3196 for enactment.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

1. I move to approve Second Reading of Ordinance No. 3196 for enactment.

REFERENCES & ATTACHMENTS

Attachment 1: Proposed Ordinance No. 3196

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

ORDINANCE NO. 3196

**AN ORDINANCE RELATING TO CHRONIC NUISANCE PROPERTIES; AMENDING
AMC 9.18.020.**

Annotated to show deletions and additions to the Ashland Municipal Code sections being modified. Deletions are ~~bold lined through~~, and additions are bold underlined.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Ashland Municipal Code 9.18.020 is hereby amended to read as follows:

9.18.020. Definitions

A. “Chronic Nuisance Property”- means property ~~Property~~ upon which three (3) or more of the below listed ~~offenses~~ behaviors occur during any sixty (60) ~~30~~-day period as a result of three (3) separate factual incidents that have been independently investigated by the Ashland Police Department.

1. Harassment as set forth defined in ORS 166.065, excluding provision 1(b).
2. A Bias Crime Intimidation as defined in ORS 166.155 through 166.165.
3. Disorderly Conduct as set forth defined in ORS 166.025, ~~excluding provision 1(b)~~.
4. Providing ~~Furnishing~~ liquor to a person under the age of 21 minor as set forth defined in ORS 471.410.
5. Possession of alcohol by person under 21 years of age ~~Minor in possession~~ as set forth defined in ORS 471.430.
6. Unnecessary noise as defined in AMC 9.08.170.
7. Manufacture or delivery of a controlled substance as defined in ORS 475.752 ~~475.992~~.
8. Delivery of a controlled substance to a minor as defined in ORS 475.906 ~~475.995~~.
9. Failure to comply with the following provisions of the Oregon Fire Code (“OFC”) contained in ORS Chapter 480 and related Oregon Administrative Rules and adopted in Ashland Municipal Code Chapter 15.28:
 - a. OFC 1031 ~~1030~~ – Maintain the means of egress, or
 - b. OFC 108.6 ~~107.5~~ – Overcrowding.
10. Nuisances affecting the public health as set forth in AMC 9.08.060.
11. Keeping junk unlawful out of doors as set forth in AMC 9.12.020.

1 B. **“Chief”**; **means the** ~~The City of Ashland~~ Chief of Police **of the City of Ashland** or the
2 Chief’s designee.

3 C. **“Control”**; **means the** ~~The~~ ability to regulate, restrain, dominate, counteract, or govern
4 conduct that occurs on that property.

5 D. **“Owner”**; **means any** ~~Any~~ tenant, renter, or lessee or any person, agent, firm, or
6 corporation having a legal or equitable interest in a property. Owner also includes, but is not
7 limited to:

- 8 1. A mortgagee in possession in whom is vested:
 - 9 a. All or part of the legal title to the property; or
 - 10 b. All or part of the beneficial ownership and a right to present use and enjoyment of
11 the premises; ~~or~~
- 12 2. An occupant who can control what occurs on that property; ~~or~~ **or**
- 13 3. Any person authorized to enter into a rental agreement on behalf of the owner or any
14 person authorized to manage property of the owner.

15 E. **“Permit”**; **means to** ~~To~~ suffer, allow, consent to, acquiesce by failure to prevent, or
16 expressly assent or agree to the doing of an act.

17 F. **“Person”**; **means any** ~~Any~~ natural person, association, partnership, or corporation capable
18 of owning or using property in the City of Ashland.

19 G. **“Property”**; **means any** ~~Any~~ real property including land and that which is affixed,
20 incidental, or appurtenant to land, including but not limited to any premises, room, house,
21 building or structure, or any separate part or portion thereof, whether permanent or not.

22 **SECTION 2. Codification.** In preparing this ordinance for publication and distribution, the
23 City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within
24 such limitations, may:

- 25 (a) Renumber sections and parts of sections of the ordinance;
- 26 (b) Rearrange sections;
- 27 (c) Change reference numbers to agree with renumbered chapters, sections, or other parts;
- 28 (d) Delete references to repealed sections;
- 29 (e) Substitute the proper subsection, section, or chapter numbers;
- 30 (f) Change capitalization and spelling for the purpose of uniformity;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

- (g) Add headings for purposes of grouping like sections together for ease of reference; and
- (h) Correct manifest clerical, grammatical, or typographical errors.

SECTION 3. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

PASSED by the City Council this _____ day of _____, 2021.

ATTEST:

Melissa Huhtala, City Recorder

SIGNED and APPROVED this _____ day of _____, 2021.

Julie Akins, Mayor

Reviewed as to form:

David H. Lohman, City Attorney