

Council Business Meeting

March 21, 2017

Title: First Reading of an Ordinance Amending Chapter 10.120.010 To Include City's 175 Lithia Way Parking Lot Within Enhanced Law Enforcement Area

From: David Lohman City Attorney
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Summary:

This agenda item is the First Reading of an ordinance to amend Chapter 10.120.010 of the Ashland Municipal Code to enlarge the Enhanced Law Enforcement Area ("ELEA") to include an adjacent city parking lot on Lithia Way. The expansion is intended to protect the public against health and welfare hazards posed by persons attracted to the parking lot for opportunities to engage in or to contact others to engage in unlawful activity.

Actions, Options, or Potential Motions:

1. Approve expansion of the ELEA as proposed by passing the following motion or a version thereof: "I move to approve the First Reading of an ordinance entitled, "Amending Chapter 10.120.010 To Include City of Ashland's 175 Lithia Way Parking Lot Within the Enhanced Law Enforcement Area." [*with the following changes...*] and move the ordinance on to Second Reading."
2. Council could take no action, leaving the ELEA as it is.
3. Council could make further additions to the ELEA, either as part of the expansion proposed by this agenda item or in subsequent ordinance amendments. See discussion in Background section below.

Staff Recommendation:

Approve First Reading of the proposed ordinance.

Resource Requirements:

The addition of this parking lot to the ELEA should not require any additional law enforcement resources beyond those already required for enforcement in the subject parking lot. The proposed amendment would not increase or decrease the number or nature of activities that are deemed unlawful. It might, however, result in some additional Municipal Court cases concerning possible temporary expulsion from the entire ELEA of persons found guilty of certain offenses or failures to appear in court multiple times.

Policies, Plans and Goals Supported:

- Public Safety (Council Goal)
 23. Support innovative programs that protect the community

- Quality of Life (Administrative Goal)
Provide, promote and enhance the security/safety, environmental health, and livability of the community.
- Public Safety (Administrative Objective)
24. Increase safety and security city-wide

Background and Additional Information:

The City of Ashland's public parking lot at 175 Lithia Way is used by shoppers, employees, and visitors, some of whom want or need to be able to leave their vehicles there for extended periods of time without undue concern for their personal safety or damage to their vehicles.

Because of its location near downtown and partly because of being adjacent to the present ELEA boundary, the parking lot increasingly has become a gathering spot for persons engaging in unlawful or otherwise offensive behavior. Such behavior includes conduct currently proscribed by the City's persistent violation ordinance (*e.g.*, scattering rubbish, undue noise, out-of-control dogs, consumption of alcohol or marijuana in public), as well as taking up parking spaces and not moving from where drivers are attempting to park, camping, and vehicle tampering. APD and administrative staff are receiving repeated complaints from neighboring property owners and vehicle owners concerning unwanted behavior by persons using the parking lot for activities unrelated to parking.

This proposed ordinance amendment would affect offenders who have been cited for multiple violations or who fail multiple times to appear in court to address charges against them either by challenging the charges legally or by acceding to proposed penalties. The proposed ordinance amendment would not increase or decrease the number or nature of proscribed activities; instead it increases slightly the downtown area from which persons found by a court to be guilty of multiple offenses can be temporarily expelled.

This proposed admission to the ELEA is feasible in that it is fairly small in area, abuts the current ELEA boundary, and is demonstrably a site where unlawful activities are occurring with increasing frequency.

Some concerned citizens have suggested other additions to the ELEA. To withstand scrutiny in court, such additions would have to be justified, at a minimum, by substantial numbers of calls for APD enforcement.

Attachments:

Ordinance

Exhibit A: Map of proposed Downtown Enhanced Law Enforcement Area

ORDINANCE NO. _____

**AN ORDINANCE AMENDING AMC 10.120 TO ADD
THE 175 LITHIA WAY PUBLIC PARKING LOT TO EXISTING
ENHANCED LAW ENFORCEMENT AREA**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **underlined**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, The City's public parking lot located at 175 Lithia Way, is adjacent to the existing Enhanced Law Enforcement Area; and

WHEREAS, City of Ashland law enforcement has experienced increased and disproportionate instances of individuals' recurring unlawful activities within the 175 Lithia Way public parking lot which would constitute persistent violations under AMC 10.120.020 if they took place nearby in the City's current Enhanced Law Enforcement Area; and

WHEREAS, City of Ashland law enforcement considers it is necessary to expand the Enhanced Law Enforcement Area to include the parking lot located at 175 Lithia Way in order to protect the public against health and welfare hazards posed by persons who are attracted to the parking lot.

**THEREFORE, THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS
FOLLOWS:**

SECTION 1. Chapter 10.120 is amended as follows:

10.120.010 Enhanced Law Enforcement Area and Persistent Violations, Misdemeanor

A. It is the intent of the City Council to protect discrete areas within the City that are experiencing increased unlawful activity against becoming an attraction for more such activity and to protect the public against health and welfare hazards posed by persons who are attracted to these areas for opportunity to engage in or to contact others to engage in unlawful activity.

B. The City Council finds that the following geographic areas within the City are particularly affected by unlawful behavior and/or are subject to a disproportionate number of incidents of the

unlawful activities comprising persistent violation as defined in AMC 10.120.020 below, and declares each such area to be an enhanced law enforcement area:

- 1) Downtown Enhanced Law Enforcement Area, inclusive of Bill Patton Garden **and 175 Lithia Way public parking lot, as depicted in** Exhibit A.

10.120.020A Person Commits the Crime of Persistent Violation if:

A. The person is convicted in Ashland Municipal Court for any combination of the following crimes or violations occurring in separate incidents within a six month period within an enhanced law enforcement area:

- 1) Three (3) or more Class A, B or C felonies or Class A, B or C misdemeanors;
- 2) Two (2) Class A, B or C felonies or Class A, B or C misdemeanors plus one (1) or more violations of the ordinances set forth below;
- 3) Three (3) or more violations of any of the following ordinances or laws:
 - a. AMC 9.08.110 - Scattering Rubbish;
 - b. AMC 9.08.170 - Unnecessary noise;
 - c. AMC 9.16.010 - Dogs - Control Required;
 - d. AMC 10.40.030 - Consumption of Alcohol in Public;
 - e. AMC 10.40.040 - Open Container of Alcohol in Public;
 - f. AMC 9.16.015 - Dog License Required; or
 - g. ~~Measure 91, Section 54~~ **ORS 475B.280** - Use of marijuana in public place prohibited.

B. The person knowingly enters an enhanced law enforcement area in violation of a Municipal Court expulsion order as a term of the person's probation or a court expulsion order pursuant to AMC 10.125.010, *et sec.*

SECTION 2. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code, and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered or re-lettered, provided however, that any Whereas clauses and boilerplate provisions, *i.e.*, Section nos. 2-4 need not be codified, and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X,

Section 2(C) of the City Charter on the _____ day of _____, 2017,
and duly PASSED and ADOPTED this _____ day of _____, 2017.

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2017.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney



CITY OF
ASHLAND



Downtown Enhanced Law
Enforcement Area - Exhibit A

0 75 150 300 450 600 Feet

