

Council Business Meeting

March 21, 2017

Title: First Reading of an Ordinance Amending Chapter 11.26 to Limit the Use of Public Parking Lots for Purposes Other Than Parking Vehicles

From: Dave Lohman City Attorney
david.lohman@ashland.or.us

Summary:

This agenda item is the First Reading of an ordinance to amend Chapter 11.26 of the Ashland Municipal Code to restrict use of parking lots to their intended purpose. This proposed ordinance would limit the use of public parking lots to the parking of vehicles, with exceptions for other short-term uses pursuant to City-issued permits.

Actions, Options, or Potential Motions:

1. Approve First Reading by title only of an ordinance titled, “An Ordinance Amending Chapter 11.26 to Limit the Use of Public Parking Lots for Purposes Other Than Parking Vehicles” *[with the following changes...]* and move the ordinance on to Second Reading.
2. Council could take no action.

Staff Recommendation:

Approve First Reading of the proposed ordinance.

Resource Requirements:

Passage of the proposed ordinance is not expected to have a direct fiscal impact on the City. Additional police presence may be necessary to enforce the proposed ordinance. But keeping persons from congregating in parking spaces so as to exclude their use for vehicle parking is expected to reduce calls to the police department concerning offensive behavior in parking lots and make a few more spaces available for parking in the downtown area.

Policies, Plans and Goals Supported:

N/A

Background and Additional Information:

This ordinance is applicable to all City-owned parking lots. It is prompted partly by the well-recognized shortage of parking spaces in the downtown. The high cost of providing new downtown parking capacity makes it prudent for the City to see that its parking lots are used for parking except on rare occasions and subject to a City-approved permit.

Limiting the use of parking spaces in public parking lots to vehicle parking would be a commonsense parallel of the existing prohibition on occupying or encroaching on a public right-of-way for purposes other than passage or temporary vehicle storage (parking). AMC 13.02.040A. Under the latter ordinance, unpermitted occupation of vehicle parking spaces on the street so as to

exclude use of those spaces for purposes other than parking would be a violation; unpermitted occupation of vehicle parking spaces in public parking lots for purposes other than parking should be no different. In both cases, occupying parking spaces so as to keep them from being used for their intended purpose amounts to appropriating for one's exclusive personal use public property dedicated to a particular public use.

Recently, residents and passersby near at least one public parking lot have been experiencing considerable disruption to their quiet enjoyment as a result of loud, vulgar, or other offensive behavior by persons gathering in and around the parking lot at all times of the day and night; the strong odor of tobacco and marijuana smoke; and the accumulation of trash and human waste in the parking lot. Also, drivers using the parking lot to park their cars have complained about being approached at vulnerable moments as they are exiting or entering their cars and solicited by members of small groups occupying nearby parking spaces for extended periods of time.

This ordinance is designed to accommodate requests for temporary special events on public parking lots provided the requests are processed through the city administrator's special events permitting procedure.

Attachments:
Ordinance

ORDINANCE NO. _____

**AN ORDINANCE AMENDING AMC 11.26.020 TO LIMIT THE
USE OF PUBLIC PARKING LOTS FOR PURPOSES OTHER THAN
PARKING VEHICLES**

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 has directed significant financial and other resources to constructing and maintaining parking lots in and near the downtown to accommodate high demand for parking spaces; and

WHEREAS, a shortage of downtown parking spaces in times of peak demand has prompted the City to consider various measures to increase the availability of such parking spaces; and

WHEREAS, persons trying to park vehicles in City public parking lots have increasingly been unable to do so because otherwise available parking spaces, including parking spaces for handicapped persons, were occupied by persons using the parking spaces for purposes other than vehicle parking; and

WHEREAS, exclusionary unpermitted occupancy of public parking spaces for uses other than vehicle parking inconveniences the general public and imposes undue financial burdens on the City; and

WHEREAS, the City of Ashland occasionally finds that portions of public parking lots are sought to be used temporarily for beneficial purposes other than strictly for vehicle parking. The City Administrator should be authorized to issue permits for short term, temporary uses whose benefits to the general public outweigh the inconveniences.

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

SECTION 1. Chapter 11.26.020 is amended as follows:

11.26.020 Prohibitions

In addition to the parking prohibitions in the motor vehicle laws of Oregon, no person shall:

- (1) Except where the street is marked or where officially indicated otherwise, stand or park a vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb or, if no curb, as close as possible to the edge of the shoulder;
- (2) Park on a street or in a City parking lot in a manner or at a time prohibited by official signs;
- (3) Park on a street or in a City parking facility longer than the time specified by applicable official parking signs:
 - (a) The period of time so specified shall begin when the vehicle is parked in a particular limited time zone on a particular block face; and
 - (b) The period shall be terminated when the vehicle is moved and parked on a different block face, at which time a new period shall begin as stated in (a);
- (4) Park so as not to be entirely within the painted lines of a single parking space;
- (5) Park within an area marked off by traffic markers or by painted curb or pavement;
- (6) Park within 10 feet of a fire hydrant or within 30 feet of a fire station;
- (7) Park in a street intersection, including the area used for crosswalks, or upon a sidewalk, or upon a bicycle path;
- (8) Park upon a bridge, viaduct, or other elevated structure used as a street, or within a street tunnel, or upon any parkway, unless marked or indicated by official signage otherwise;
- (9) Park across or within the entrance to an alley or driveway;
- (10) Park in an alley, except to load and unload persons or materials for not longer than 20 consecutive minutes in any 2 hour period;
- (11) Park in an unimproved portion of the front setback of any structure in any residential zoned district;
- (12) Park on any public right-of-way with expired vehicle registration;
- (13) Park on any public right of way with the principal purpose of:
 - (a) Displaying the vehicle for sale;
 - (b) Washing, greasing, or repairing the vehicle, except repairs necessitated by an emergency; or
 - (c) Selling merchandise from the vehicle, except in an established marked place or when so authorized or licensed under the ordinances of this City; or
- (14) Park, stand or stop a truck or bus on a public street or in a public parking area with its engine running, if such engine emits exhaust fumes into the air. Vehicle engines shall be turned off when loading and unloading passengers or merchandise. This subsection shall not apply to:
 - (a) An engine running for less than five minutes;
 - (b) A vehicle in the moving traffic lane waiting to move with the normal flow of traffic;
 - (c) An engine needed to operate equipment used to load or unload merchandise; or
 - (d) Emergency vehicles, utility company vehicles, or any construction and maintenance vehicles which have engines that must run to perform needed work.

(15) Use of parking lots owned by the City shall be restricted to parking of vehicles as defined in ORS 801.590 unless otherwise permitted by special use permit issued by the City Administrator's Office.

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.*, Sections 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