

Council Business Meeting

May 2, 2017

Title: Second Reading of an Ordinance Amending AMC 1.08.005F Updating ELEA Persistent Violations

From: Doug McGeary Asst. City Attorney
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Summary:

This agenda item is the second reading of an ordinance to amend AMC 10.120.020, adding two additional violations to the Enhanced Law Enforcement Area (ELEA) of downtown Ashland. The addition of these same ELEA violations are cross-referenced in AMC 1.08.005F(2) and were inadvertently not updated in the Code Compliance Officers chapter in November 17, 2015. This Ordinance will correct that oversight.

On April 28, 2017, council passed this ordinance at its first reading with no changes, moving it on to its second reading as presented herein.

Actions, Options, or Potential Motions:

1. Approve second reading of an ordinance titled, "Ordinance Amending AMC Chapter 1.08 General Penalties, Section 1.08.005F(2) To Reflect Prior Amendment To AMC 10.120.020 Persistent Violation" as presented.

OR

2. Council could take no action.

Staff Recommendation:

Approve second reading of the proposed ordinance.

Resource Requirements:

N/A

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:

Council amended AMC Chapter 10, Section 10.120.020 on [November 17, 2015](#), to address the problems of persistent violations of law in the downtown area and persistent failure to appear in court, by adding two new persistent violations. Upon codification of the aforesaid ordinance on

Persistent Violation and Persistent Failure to Appear, an update of those same persistent violations should have been cross-referenced in AMC Chapter 1.08 General Penalties. This Ordinance will provide that update.

Attachments:
Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING AMC CHAPTER 1.08 GENERAL PENALTIES, SECTION 1.08.005F TO REFLECT PRIOR AMENDMENT TO AMC 10.120.020 PERSISTENT VIOLATION

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, Council amended AMC Chapter 10, Section 10.120.020 on November 17, 2015 to address the problems of persistent violations of law in the downtown area and persistent failure to appear in court, by adding two persistent violation; and

WHEREAS, effectuating the new ordinance on Persistent Violation and Persistent Failure to Appear, requires a cross-reference update of those persistent violations in AMC Chapter 1.08.

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

SECTION 1. Chapter 1.08 General Penalties of the Ashland Municipal Code is hereby amended to read as follows:

1.08.005 Code Compliance Officers

F. Default /Criminal Charges / Warrant/ Presumptive Arrest

- (1) Failure to appear on a violation citation may result in a default judgment, criminal prosecution for failure to appear [See ORS 153.992, ORS 133.076], a Court order to show cause for Contempt, as well as issuance of an arrest warrant.
- (2) Notwithstanding F(1) above, court appearance is mandatory for the following violations occurring within an Enhanced Law Enforcement Area as provided in AMC 10.120.020:
 - 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; ~~or~~
 - e. AMC 10.40.040--Open Container of Alcohol in Public;
 - f. AMC 9.16.015 – Dog License Required; or**

g. ORS 475B.280 – Use of marijuana in public place prohibited.

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”, “chapter” 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