

SRC Chapter 98 defines public nuisance properties in relation to criminal activity and is intended to address the harms created by chronic unlawful activities occurring at the properties. The City Council held its first reading of Ordinance Bill 21-18 on October 22, 2018. The amendments (attachment 1) allow the Salem Police Department to consider ongoing nuisance behaviors occurring over a 90-day time period to determine if a property is a public nuisance, increase the civil penalty for nuisances occurring after abatement is ordered from \$100 to \$500 per day, and have hearings regarding abatement of public nuisance property and civil penalties occur before a hearings officer instead of City Council.

Under the current Chapter 98, initiation of the public nuisance process is challenging due to the current 30-day period Salem Police have to investigate and document criminal activity. With an extended time period, Salem Police will be able to prove ongoing criminal activity harmful to a neighborhood and not risk having to re-start the case after 30 days. Moving the hearings process from City Council to a hearings Officer will allow more efficient hearings, under quasi-judicial procedures, once the property has been declared a public nuisance while still providing property owners a full and fair process.

The current penalty of \$100 per day a violation occurs for a public nuisance may not be sufficient to deter harmful conduct and provide an incentive for the property owner to comply. Increasing the civil penalty amount to \$500 is intended to incentivize up-front voluntary compliance and to minimize the duration of non-compliance if an order of abatement is issued by the hearings officer.

FACTS AND FINDINGS:

Other amendments in Ordinance Bill 21-18 include defining public nuisance property to include property upon which four or more instances of any combination of the enumerated criminal behaviors occur, or whose patrons employees, residents, owners or occupants engage in within 400 feet of the property, during any 90-day period. References to state criminal offenses are established as the 2017 version of the statutes.

The hearing to contest the validity of a civil penalty imposed will now be held before the City's Hearings Officer rather than in the Salem Municipal Court.

The civil penalty for each day a property remains a public nuisance will be increased from \$100 to \$500. As before, civil penalties that are not paid may be converted into liens on the property. Liens will bear interest at the legal rate.

Ordinance Bill 21-18 provides for other changes to the provisions of Chapter 98 including changes to the process to request a hearing, the scheduling of hearings, notice procedures, and establishing liens on the property. Ordinance Bill 21-18 contains provisions regarding some of the authority and obligations of the hearings officer with respect to the hearings and remedies. Ordinance Bill 21-18 also establishes when a property will no longer be considered a public nuisance property under Chapter 98, and clarifies the relationship of the Chapter 98 remedies to other remedies available to the City to address public nuisances.

Jerry Moore

Chief of Police

Attachments:

1. Ordinance Bill 21-18
2. Exhibit A to Ordinance Bill 21-18