



Legislation Text

File #: 17-1304, **Version:** 2

Ordinance No. 17-108 repealing Section 715 (Nuisance Abatement Advisory Committee) of Part 7 (Civil Abatement of Public Nuisances) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended

Presenter:

Bret Waters, Deputy Chief of Staff
Sean Mandel, Commander, Colorado Springs Police Department

Summary:

The Nuisance Abatement Advisory Committee is inactive and City staff requests its discontinuance through the recommended City Code amendment.

Previous Council Action:

The City Council passed Ordinance No. 00-104 in 2000 establishing the City's civil abatement of public nuisances ordinances and the formation of the Nuisance Abatement Advisory Committee. City Council passed Ordinance No. 06-51 reducing the number of annual mandatory meetings of the Committee.

Background:

On June 29, 2000 Ordinance No. 00-104 established the formation of the Nuisance Abatement Advisory Committee. In 2001, Ordinance No. 01-42 recodified the City Code creating a new numbering system. Ordinance No. 06-51 reduced the number of annual mandatory meetings of the Committee.

The definition of a public nuisance is: Any place where people congregate, which encourages a disturbance of the peace or where the conduct of persons in or about that place annoys or disturbs the peace of the occupants of or persons attending the place, the residents in the vicinity or the passersby on the public street or highway. Evidence of the existence of a nuisance shall include evidence of two (2) or more occurrences of illegal activity in, at or upon the premises. Evidence may include, but shall not be limited to, evidence that two (2) or more of the following illegal activities are occurring in, at or upon the premises, or that the premises are used to commit, conduct, promote, facilitate or aid the commission of any of the following activities (for purposes of this section the illegal activity shall have the same definition as that contained in the pertinent section[s] of the Colorado Revised Statutes [CRS], as amended, or the pertinent section[s] of the Code of the City of Colorado Springs [City Code]):

A. Prostitution, soliciting for prostitution, pandering, keeping a place of prostitution, pimping, or public indecency;

B. Unlawful discharge, possession, carrying, flourishing, concealment, storage, use or sale of firearms, knives and/or assault weapons, dangerous weapons and substances or defaced firearms, or any offense relating to incendiary devices;

C. The selling, serving, giving away, disposing of, exchanging, delivering or permitting the sale, serving, giving or procuring of any malt, vinous, or spirituous liquor or fermented beverage to or for any person under lawful age or to a visibly intoxicated person. However, if a person who, in fact, is not of lawful age exhibits a fraudulent proof of age, then the selling, serving, procuring, giving away or dispensing of beverages to that person shall not constitute evidence of a public nuisance;

D. The sale at retail of any malt, vinous or spirituous liquors, or fermented malt beverages in sealed containers, or the manufacture, sale or possession for sale of any malt, vinous or spirituous liquors, or fermented malt beverages without holding a valid license in full force and effect to do so;

E. Any gang related criminal activity;

F. Any drive-by crime;

G. Any assault, fighting, or disorderly conduct crime;

H. Possession with intent to distribute, cultivation, manufacture or sale of any illegal drug or controlled substance;

I. Continuous or recurring violations of fire, sanitary or health codes which either singly or taken as a whole constitute a significant threat to the health, safety or welfare of one or more persons. Violations of this type shall only be actionable as a public nuisance when found in combination with other types of public nuisance violations.

The City's Civil Abatement of Public Nuisances ("Public Nuisance") program is codified at City Code section 9.6.701, et seq. The Public Nuisance program is administered by the Colorado Springs Police Department in conjunction with prosecution efforts of the City Attorney's Office.

Public Nuisance actions are not criminal actions; instead, the purpose of the program is to remedy public nuisances on real property. If a public nuisance occurs on real property, notice is provided to a property owner requesting abatement of the nuisance within thirty (30) days. If abatement does not occur, the City Attorney's Office may file in the Municipal Court a request for a temporary restraining order and then an order for the temporary closure or receivership of the real property to prevent the continuance of the nuisance.

As a part of the adoption of the Public Nuisance program, a Nuisance Abatement Advisory Committee ("NAAC") was established. The purpose of the NAAC was to oversee implementation and administration of the Public Nuisance program and the committee was to be informed if any Public Nuisance actions had been filed. The group only had advisory functions and did not have the authority to reject or approve of any specific Public Nuisance filing.

The City uses the Public Nuisance program sparingly, and the NAAC has not met since at least 2008. Due to this extended lapse in meetings, the eight (8) members of the NAAC must either be appointed at this time, or the committee may be eliminated.

Staff recommends the elimination of this committee considering the lack of its utilization and its limited advisory role related to the Public Nuisance program.

Financial Implications:

N/A

Board/Commission Recommendation:

N/A

Stakeholder Process:

N/A

Alternatives:

Do not approve the ordinance. For City staff to utilize the City's nuisance abatement ordinances, City Council must appoint the members of the Nuisance Abatement Advisory Committee.

Proposed Motion:

Approve an Ordinance repealing Section 715 (Nuisance Abatement Advisory Committee) of Part 7 (Civil Abatement Advisory Committee) of Article 6 (Offenses Affecting Property) of Charter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001

Ordinance repealing Section 715 (Nuisance Abatement Advisory Committee) of Part 7 (Civil Abatement Advisory Committee) of Article 6 (Offenses Affecting Property) of Charter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended