

## Chapter 4

### OFFENSES

#### General

**4.005** Offenses - Outside City Limits. Where permitted by Oregon law, an act made unlawful by this Code shall constitute an offense when committed in an area belonging to the city, even though outside the corporate limits of the city.

**4.010** Parties to Offenses.

- (1) A person is guilty of an offense if it is committed by that person's own conduct or by the conduct of another person for which that person is liable, or both.
- (2) A person is liable for the conduct of another person constituting an offense if:
  - (a) The person is made liable by the ordinance defining the offense; or
  - (b) With the intent to promote or facilitate the commission of the offense the person:
    1. Solicits or commands such other person to commit the offense.
    2. Aids or abets or agrees or attempts to aid or abet such other person in planning or committing the offense.
    3. Having a legal duty to prevent the commission of the offense fails to make an effort the person is legally required to make.
- (3) In any prosecution for an offense in which liability is based upon the conduct of another person pursuant to subsection (2) of this section, it is no defense that:
  - (a) Such other person has not been prosecuted for or convicted of any offense based upon the conduct in question or has been convicted of a different offense; or
  - (b) The offense, as defined, can be committed only by a particular class or classes of persons to which the defendant does not belong, and the defendant is for that reason legally incapable of committing the offense in an individual capacity.
- (4) Except as otherwise provided by the ordinance defining the offense, a person is not liable for conduct of another constituting an offense if:
  - (a) The person is a victim of that offense.
  - (b) The offense is so defined that the person's conduct is necessarily incidental thereto.

## Eugene Code

- (5) In addition to the liability of a corporation, firm, partnership, association or joint stock company otherwise imposed by the ordinances of this city, such an organization is guilty of an offense if:
- (a) The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of the agent's employment and in behalf of the corporation, or the offense is one defined by an ordinance that clearly indicates a legislative intent to impose liability on a corporation; or
  - (b) The conduct constituting the offense consists of an omission to discharge a specific duty or affirmative performance imposed on corporations by law; or
  - (c) The conduct constituting the offense engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of the agent's employment and in behalf of the corporation.
    1. As used in this section:
      - a. "Agent" means any director, officer or employee of a corporation, or any other person who is authorized to act in behalf of the corporation
      - b. "High managerial agent" means an officer of a corporation who exercises authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees, or any other agent in a position of comparable authority.
- (6) A person is liable for conduct constituting an offense which the person performs or causes to be performed in the name of or in behalf of a corporation, firm, partnership, association or joint stock company to the same extent as if such conduct were performed in the person's own name or behalf.
- (7) Person means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

*(Section 4.010 amended by Ordinance No. 16427, enacted April 24, 1972; Ordinance No. 19462, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.015**     **Offenses - Attempt to Commit.** A person who shall attempt to commit any of the offenses mentioned in this Code or any ordinance of the city, but who for any reason is prevented from consummating such act, shall be deemed guilty of an offense.

**4.020**     **Violations of Code - Continuing.** Whenever in this Code an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.

**4.030 Defense, and Affirmative Defense.**

- (1) As used in this chapter, when a "defense," other than an "affirmative defense" as defined in subsection (2) of this section, is raised at a trial, the city has the burden of disproving the defense beyond a reasonable doubt.
- (2) When a defense, declared to be an "affirmative defense" by this Code is raised at a trial, the defendant has the burden of proving the defense by a preponderance of the evidence.
- (3) The city is not required to negate a defense as defined in subsection (1) of this section unless it is raised by the defendant. "Raised by the defendant" means either notice in writing to the city at least five days prior to commencement of trial or affirmative evidence by a defense witness in the defendant's case in chief.

*(Section 4.030 added by Ordinance No. 18512, enacted October 5, 1979.)*

**4.035 Department of Public Safety of University of Oregon – Citation Authority.**

- (1) Public safety officers of the University of Oregon are authorized to issue citations for violations of this code if the public safety officer has probable cause to believe that the person to be cited committed the violation on property owned or leased by the University of Oregon.
- (2) The authority granted by subsection (1) of this section may be exercised only pursuant to an intergovernmental agreement with the University of Oregon specifying the sections of this code for which citations may be issued and containing such terms as the city manager determines are appropriate.

*(Section 4.035 added by Ordinance No. 20293, enacted July 28, 2003, effective August 28, 2003; amended by Ordinance No. 20443, enacted November 9, 2009, effective December 11, 2009; and amended by Ordinance No. 20465, enacted November 8, 2010, effective December 10, 2010.)*

## ADVERTISING AND NOISE MAKING

**4.045** **Definitions.** For the purposes of section 4.045 to 4.075, the following words and phrases shall mean:

**Bill distributor.** A person, firm or corporation disseminating information to residences by means of handbills, either for others for hire or not, or for the distributor's own purpose. However, nothing herein shall apply to the distribution of material delivered by or through the United States mails, or to the distribution of newspapers or other literature ordered by or sold to the owner or occupant of the premises.

**Handbill.** A sample, leaflet, dodger, advertising circular, folder, booklet, letter, pamphlet, sheet, poster, sticker or banner, but not a newspaper or other publication printing news of a general nature or keeping space therein open to the public for the publication of general advertising matter.

*(Section 4.045 amended by Ordinance No. 18963, enacted May 12, 1982.)*

**4.050** **Affixing, Displaying, Painting, Etc., Matter to Streets, Trees, Etc. - Prohibition, Responsibility for Costs.**

- (1)** No person shall affix or display, or cause to be affixed or displayed, a notice, placard, bill, handbill, card, advertisement or sign on a sidewalk, crosswalk, curb or curb- stone, or a portion or part of a public way or public place, or a public lamp post, electric light, telegraph, telephone pole or railway structure, hydrant, shade tree or tree-box or on the piers, columns, trusses, girders, railings, gates or other parts of a public bridge or viaduct, or other public structure or building, or on a pole, box or fixture of the fire alarm or police telegraph system, except as may be authorized or required by the laws of the United States, State of Oregon, this code or other ordinances.
- (2)** In addition to any other penalty provided by law, any such notice, placard, bill, handbill, card, advertisement or sign may be impounded by the city and disposed of in accordance with the procedures outlined in sections 2.825 to 2.855 of this code.
- (3)** In addition to the penalty specified in section 4.990 or 4.996 of this code, any person responsible for any posting made unlawful by subsection (1) of this section shall also be liable to the city for the costs incurred by the city in removal thereof and, in event of a failure to pay, for billing and collection charges. If the costs of removal are not paid within 30 days after the city mails the bill for the costs incurred by the city for removal, the city manager, or his or her designee, is authorized to effect the collection of the removal costs, together with interest and the costs of collection, including reasonable attorney's fees. The cost shall be determined in accordance with a rate schedule approved by the city manager. Costs include, but are not limited to, direct labor, material and equipment costs, as well as department and general city

## Eugene Code

overhead costs attributable to the removal of the unlawfully posted material and to identifying the responsible person or persons and collecting from them the costs of removal.

- (4)** For purposes of recovering the costs of removal, there is a rebuttable presumption that:
- (a) A real estate agent, broker, brokerage firm, auctioneer or other person whose name or telephone number appears on the posted material is the person responsible for its posting;
  - (b) A candidate seeking office is the person responsible for posting any material promoting his or her candidacy for public office;
  - (c) A person conducting a yard, garage, estate or moving sale is the person responsible for posting any material advertising the sale; and, unless the sale is advertised as that of a merchant or liquidator engaged in the business of selling personal property, that the owner, or lessee if the property is leased, of the premises where the sale occurs is responsible for conducting the sale;
  - (d) An owner, or lessee if the property is leased, of property used for a commercial activity or event is the person responsible for posting any material advertising the commercial activity or event;
  - (e) A person whose name, telephone number or address appears as the sponsor of a sporting event, concert, theatrical performance or similar activity is the person responsible for posting any material advertising the activity or event;
  - (f) A person whose name, telephone number or address appears as the person to contact on any posted material is the person responsible for posting the material.

The presumptions in this subsection for recovering the costs of removal of the posted material do not apply to prosecutions in municipal court for violation of subsection (1) of this section.

- (5)** An individual presumed responsible for removal costs under subsection (4) of this section may request an administrative hearing before the city manager or the manager's designee by submitting to the city manager or his or her designee a written declaration made under penalty of perjury or a sworn affidavit that the person did not cause, authorize, or permit the posting of the material in violation of subsection (1) of this section. Such declaration or affidavit must be submitted to the city manager or his or her designee within 10 days of the date the city's billing statement for removal costs was mailed. If such a declaration is filed, an administrative hearing will be scheduled. At that hearing, the city will have the burden of proving by a preponderance of the evidence that the person billed for the removal costs caused, authorized, or permitted the posting of material in violation of subsection (1) of this section, and that the costs were properly computed.
- (6)** The city manager is authorized to promulgate rules in the manner prescribed in section 2.019 of this code for the implementation of the

## Eugene Code

program to recover the costs of removal, including providing for an administrative hearing before the city manager or his or her designee.

*(Section 4.050 amended by Ordinance No. 18963, enacted May 12, 1982, Ordinance No. 19387, enacted June 11, 1986; and Ordinance No. 20221, enacted January 22, 2001, effective February 21, 2001.)*

### **4.060 Distribution on Private Property.**

- (1) No person shall distribute or in any manner place a handbill on premises, if requested not to do so, or if there is placed on the premises in a conspicuous position near the entrance, a sign stating: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or similar notice, indicating that the occupants of the premises do not desire to have their right of privacy disturbed, or have handbills left on the premises.
- (2) No person shall distribute a handbill to or on premises when it is apparent that a previous day's distribution of a handbill has not been removed.
- (3) No person shall distribute a handbill to or on premises unless the handbill is folded or otherwise prepared or placed so that it will not be blown therefrom by the wind.
- (4) No person other than the owner shall distribute or in any manner place a handbill in or on an automobile or other vehicle. The provisions of this section shall not prohibit the handing, transmitting or distributing of a handbill to an operator or occupant of a vehicle who is willing to accept the same, nor shall it prohibit the city or its designees from placing on vehicles that have violated a parking ordinance or are suspected of being in violation of parking regulations, parking citations, warnings, and information pertaining to transportation.

*(Section 4.060 amended by Ordinance No. 18581, enacted February 20, 1980, and Ordinance No. 18963, enacted May 12, 1982.)*

**4.065 Method of Distribution.** Bill distributors and their agents or employees making the actual distribution of handbills shall utilize only public ways, streets, alleys or sidewalks and the private walkways provided for customary approach to private premises to deposit the distributed material.

**4.075 Effect on Peddler, Etc., Regulations.** Sections 4.045 to 4.075 shall not repeal, amend or modify other provisions of this Code prohibiting, regulating or licensing canvassers, hawkers, peddlers, transient merchants or any person using the public streets or places for a private business or enterprise or for commercial sales.

### **4.080 Noise Disturbance - Prohibited.**

- (1) For purposes of this section, and sections 4.081, 4.083 and 4.084 of this code:
  - (a) Noise disturbance means any sound which:

Eugene Code

1. Injures or endangers the safety or health of a human;
  2. Annoys or disturbs a reasonable person of normal sensitivities; or
  3. Endangers or injures personal or real property.
- (b) Plainly audible means where the listener clearly can hear the content of the sound produced by the noise source. Sounds which may be clearly audible include, but are not limited to, musical rhythms, spoken words, vocal sounds, and engine noises.
- (2) It shall be unlawful for any person to intentionally or recklessly create or continue any noise disturbance.

*(Section 4.080 amended by Ordinance No. 16299, enacted September 13, 1971; Ordinance No. 19274, enacted August 13, 1984; and Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993.)*

**4.081 Noise Disturbance - Repetition and Failure to Cease.** It shall be unlawful for any person responsible for a noise disturbance caused by electronically amplified sound or a gathering of five or more people to:

- (a) Fail within 30 minutes to eliminate or cease such noise disturbance after receiving a citation or other notice of a violation of this section or section 4.080 of this code, or
- (b) Intentionally or recklessly create the same or a similar noise disturbance within six months of having received a citation or other notice of a violation of this section or section 4.080 of this code.

*(Section 4.081 added by Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993.)*

**4.083 Noise Disturbance - Specific Prohibitions.** Unless exempted by section 4.084 of this code, the following acts are declared to be noise disturbances; however this enumeration shall not be deemed an exclusive list of the violations of section 4.080(2) or section 4.081 of this code, nor shall the recitation of specific prohibitions below be deemed the exclusive and entire listing of unlawful noise disturbances for each subcategory:

- (a) Sound producing, amplifying or reproducing equipment. Operating or permitting the use or operation of any device designed for sound production, amplification, or reproduction, including but not limited to a radio, drums and other musical instruments, phonograph, television set, tape recorder, loud speaker, or other similar device:
  1. Between the hours of 10 p.m. and 7 a.m. the following day so as to be plainly audible within any dwelling unit which is not the source of the sound; or
  2. On public property or on a public right-of-way so as to be plainly audible fifty feet or more from such device, except as specifically authorized in writing by the city, county, state or federal government.
- (b) Animals. Keeping, or permitting the keeping of any animal or fowl otherwise permitted to be kept which, by any sound, cry or behavior

## Eugene Code

causes vocal or other sounds on a sustained basis during a 15-minute period shall constitute a noise disturbance.

*(Section 4.083 added by Ordinance No. 16229, enacted September 13, 1971; amended by Ordinance No. 17434, enacted July 28, 1975; Ordinance No. 19274, enacted August 13, 1984; Ordinance No. 19697, enacted June 25, 1990; Ordinance No. 19770, enacted April 22, 1991, effective May 22, 1991; Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993; Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003; and Ordinance No. 20378, enacted February 26, 2007, effective April 4, 2007.)*

**4.084 Noise Disturbance – Exemptions.** The following sounds are exempted from the provisions of sections 4.080, 4.081 and 4.083 of this code:

- (a)** Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however that burglar or fire alarms shall not operate continuously for more than fifteen minutes.
- (b)** Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.
- (c)** Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission, or by the city manager or hearings official under subsection (2) of section 6.755 of this code.
- (d)** Sounds caused by sources regulated as to sound production by federal law or sounds caused by sources the regulation of which is preempted by state law.
- (e)** Sounds not electronically amplified, created by athletic and entertainment events other than motor vehicle racing events or fireworks displays.
- (f)** Electronically amplified announcements at athletic events other than motor vehicle racing events.
- (g)** The sounding of any horn or signaling device on an automobile, motorcycle, or other vehicle reasonably required by the exigencies of vehicular or pedestrian traffic.
- (h)** Sounds specifically authorized under a permit or license issued by the city.

*(Section 4.084 added by Ordinance No. 17435, enacted July 28, 1975, and amended by Ordinance No. 19274, enacted August 13, 1984; Ordinance No. 19606 enacted February 27, 1989; Ordinance No. 19697, enacted June 25, 1990; Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20378, enacted February 26, 2007, effective April 4, 2007.)*



## ALCOHOL AND DRUGS

**4.105** **Definitions.** The following words and phrases, as used in sections 4.115 to 4.235 shall mean:

**Alcoholic liquor.** An alcoholic beverage containing more than one-half of one percent of alcohol by volume.

**Commission.** The Oregon Liquor Control Commission as provided for by the Oregon Liquor Control Act.

**Hard liquor.** An alcoholic beverage, including sweet wines and all spiritus liquors, containing 14 percent or more of alcohol by volume

**Licensed premises.** The room or enclosure for which a license has been issued by the commission for the serving, mixing, handling or selling of alcoholic liquor.

**Licensee.** A person who has an alcoholic liquor license from the commission authorizing such person to sell or dispense alcoholic liquor.

**Malt beverage.** Beer, ale, porter, stout and similar beverages made of barley malt, hops and water, containing more than one-half of one percent of alcohol by volume and not more than 14 percent of alcohol by volume.

**Minor.** A person under the age of 21 years unless otherwise stated.

**Open alcoholic beverage container.** Any bottle, can or other receptacle containing any alcoholic liquor, hard liquor, or malt beverage, which has been opened, or a seal broken, or the contents of which have been partially removed.

**Oregon Liquor Control Act.** The state law so designated by ORS 471.027 as now or hereafter amended and supplemented, and includes the Oregon Distilled Liquor Control Act as defined by ORS 472.020 as now or hereafter amended and supplemented.

**Other responsible relative.** (1) An adult who is the spouse of a minor; (2) an adult related to the minor, who has taken over the parental duties of governing the minor's actions; or (3) a duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions.

**Possess.** To have physical possession or otherwise to exercise dominion or control.

**Public place.** A place to which the general public has access and includes, but is not limited to, highways, streets, schools, playgrounds and premises used in connection with public passenger transportation.

**Sell.** Soliciting or receiving an order for or keeping, offering or exposing for sale, delivering for value or in any way other than gratuitous, peddling, keeping with intent to sell, to traffic in, for any consideration, promised or obtained, direct or indirect, or under any pretext or by any means whatsoever, procuring or allowing to be procured alcoholic liquor for any other person.

**Toxic vapors.** Vapors released from a drug or other substance not a controlled substance as that term is defined at ORS 475.005(6), having a propensity to release vapors which cause intoxication, inebriation, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system.

*(Section 4.105 amended by Ordinance No. 16961, enacted January 7, 1974; Ordinance No. 19092, enacted February 9, 1983; Ordinance No. 19221, enacted February 8, 1984; Ordinance No. 19240, enacted April 18, 1984; Ordinance No. 19686, enacted May 14, 1990; and Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005.)*

**4.110 Sales, Etc., to Certain Persons Prohibited.**

- (1)** No person shall sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.
- (2)** No one other than the person's parent or guardian shall sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.
- (3)** No person who exercises control over private real property may knowingly allow any other person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a child or minor ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic liquor on the property. The prohibitions of this subsection apply only to a person who is present and in control of the location at the time the consumption occurs. The prohibitions of this subsection do not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides.

- (4) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or served any alcoholic liquor.

*(Section 4.110 amended by Ordinance No. 19092, enacted February 9, 1983; Ordinance No. 20256, enacted June 12, 2002, effective July 12, 2002; and Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.115 Minors - Purchase or Possession of Liquor Prohibited; Exception.**

- (1) Except as provided in section 4.120 of this Code, no minor shall attempt to purchase, acquire, or have in their possession any alcoholic liquor.
- (2) No minor shall possess any alcoholic liquor while he or she is operating a motor vehicle, as defined in ORS 801.360
- (3) For the purposes of this section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof, or a drink of such liquor. The physical act of consuming the alcohol need not occur within the corporate limits of the city.

*(Section 4.115 amended by Ordinance No. 18848, enacted July 29, 1981; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20404, enacted and effective February 26, 2008.)*

**4.120 Minors - Lawful Consumption.** Nothing contained in this chapter shall be construed as prohibiting a parent or other responsible relative of a minor from giving a minor alcoholic liquor and permitting the minor to consume it within the home of the parent or other responsible relative of the minor, or at other private places not in view of the public where the parent or other responsible relative is present.

*(Section 4.120 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.125 Minors - Entering or Remaining on Licensed Premises Prohibited; Exception.** Except as provided in section 4.135, no minor, whether or not the minor is accompanied by a parent or other responsible relative, shall enter or remain on a licensed premises, or a portion thereof, which has been posted by the commission to prohibit use by minors.

*(Section 4.125 amended by Ordinance No. 19462, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.130 Minors - Permitting Minors to Remain on Licensed Premises.**

- (1) No licensee or licensee's employee or agent shall permit a minor to:
- (a) Consume alcoholic liquor upon licensed premises, whether or not the alcoholic liquor is given to the minor by a parent or other responsible relative.
- (b) Remain on the premises or portion thereof, except as provided in section 4.135(2). The fact that a parent or other responsible relative has accompanied a minor on licensed premises shall not

## Eugene Code

constitute a defense to a charge for violation of this section, except as provided in section 4.135.

*(Section 4.130 amended by Ordinance No. 19462, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

### **4.135 Minors - Exceptions.**

- (1)** The provisions of sections 4.125 and 4.130 shall not be construed to prohibit:
  - (a) A minor from entering licensed premises, or portion thereof, for the transaction of business pursuant to the minor's duties in the regular course of lawful employment.
  - (b) A minor spouse from entering and remaining on licensed premises or a portion thereof when in the immediate company of a spouse who is 21 years of age or older.
- (2)** This section shall not be construed to authorize a minor spouse to consume alcoholic liquor on licensed premises.

*(Section 4.135 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

### **4.140 Minors - Delivering or Selling.** Except as provided by ORS 471.480, 471.482, and 472.215, no minor, either for the minor, or as agent or employee of another, shall sell, offer for sale or deliver an alcoholic liquor, nor shall a person employ, hire or engage a minor to sell, offer for sale or deliver alcoholic liquor.

*(Section 4.140 amended by Ordinance No. 16946, enacted November 26, 1973; Ordinance No. 19092, enacted February 9, 1983; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

### **4.145 Misrepresentation of Age by a Minor.** A person commits the crime of misrepresentation of age by a minor if:

- (a)** Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain specified age; or
- (b)** Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

*(Section 4.145 amended by Ordinance No. 19462, enacted April 13, 1987.)*

### **4.150 Minors - Written Statement of Age as Evidence in Prosecution.** If a licensee, the licensee's employee or the licensee's agent is prosecuted in the municipal court under this chapter for selling alcoholic liquor to a minor, or permitting a minor to consume alcoholic liquor or to loiter on or enter licensed premises, the licensee, the licensee's employee or agent may offer in that person's defense a written statement made by or for the minor prior to the violation, which statement was made and taken pursuant to the laws of

Oregon and the rules and regulations of the commission, and the statement shall constitute prima facie defense.

*(Section 4.150 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.155     Sales By Unlicensed Persons Prohibited.**

- (1) No person shall sell alcoholic liquor unless the person has obtained a license from the commission.
- (2) Sales by a licensee or a licensee's employee shall be only the sales as authorized by the license issued for the premises.
- (3) No person shall sell alcoholic beverages to or at any place, where, without a license, alcoholic beverages are sold or offered for sale. No licensee shall sell or offer for sale any alcoholic beverage in a manner, or to a person, other than the license permits the licensee to sell.
- (4) No person not licensed under the Liquor Control Act shall sell or take orders for alcoholic beverages.

*(Section 4.155 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998, and amended by Ordinance No. 20160, enacted July 26, 1999, effective August 26, 1999.)*

**4.160     Conduct on Licensed Premises.** No licensee, or the licensee's employee or agent shall permit disorderly conduct as defined in section 4.725 in or upon licensed premises which the licensee controls.

*(Section 4.160 amended by Ordinance No. 19092, enacted February 9, 1983, and Ordinance No. 19462, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.165     Consumption of Liquor on Premises Licensed Only for Malt Beverages.**

No licensee, or the licensee's employee or agent shall knowingly permit hard liquor, or malt beverages containing more than eight percent of alcohol by weight, or wine containing more than 14 percent of alcohol by volume, to be brought on or consumed on the premises which the person controls where the license of the premises permits only the sale and consumption of malt beverages.

*(Section 4.165 amended by Ordinance No. 19092, enacted February 9, 1983; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.175     Hours of Sale.**

- (1) Subject to the provisions of the following subsection, no person shall sell, dispense or allow the consumption of alcoholic liquor on licensed premises, nor shall a licensee, a licensee's employee or agent deliver or permit the removal of alcoholic liquor to, on or from licensed premises, between the hours of 1:00 a.m. and 7:00 a.m.
- (2) A licensee in lawful possession of a club, restaurant or dispenser's license may permit the privileges granted by such licenses between the hours of 7:00 a.m. and 2:30 a.m. of the day following, and may allow,

Eugene Code

after closing hours, a person who is not visibly intoxicated to remove from the club or restaurant premises alcoholic liquor lawfully brought upon the licensed premises by the person.

*(Section 4.175 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.180 Bartender Not to Drink on Duty.** No bartender shall drink or consume alcoholic liquor, or be under the influence of alcoholic liquor, while on duty in licensed premises.

**4.185 Possession of Liquor on Premises to Conform to License.** No licensee, licensee's employee or agent shall have in their possession on licensed premises any alcoholic liquor that is not included within the scope of their license.

*(Section 4.185 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.190 Consumption or Possession in Unlicensed Public Places Prohibited.**

- (1)** Except as provided in subsections (2), (3), and (4) of this section, consumption of alcoholic liquor or possession of an open alcoholic beverage container is prohibited in a public place and on private property extended to the public for use, and no person shall drink, consume alcoholic liquor, or possess an open alcoholic beverage container in such a place or on such property, unless authorized by the Oregon Liquor Control Commission or other provisions of this code.
- (2)** Alcoholic liquor may be drunk or consumed in any place licensed, in advance, for that purpose by the commission.
- (3)** Malt beverages and alcoholic liquor other than hard liquor may be drunk or consumed within city parks or county parks within the city limits, provided such drinking or consumption takes place only as authorized by the director of parks and recreation of the city pursuant to a park rule adopted in accordance with provisions of sections 2.019 et seq. of this code and so long as, if required by state law, the activity has been licensed, in advance, for drinking or consumption purposes by the commission.
- (4)** During a period commencing six hours before the start of a scheduled collegiate football game at Autzen Stadium and when the game is completed, malt beverages and alcoholic liquors may be drunk or consumed:
  - (a)** In the state-owned parking lots immediately adjacent to Autzen Stadium; and
  - (b)** On property extended for use as a parking facility not covered by subsection (4)(a) and located within the area bounded as depicted on the map 4.190(4)(b) appended to this chapter and attached to the ordinance amending this provision, provided the responsible person, who may be the property owner or person with authority

## Eugene Code

over parking operations on the property, has posted signs at each entrance to the property and distributes to each driver using the property a handbill, containing the following language:

1. It is illegal to consume alcoholic liquor or possess an open alcoholic beverage container in a public place or on private property extended to the public for use;
2. An exemption is provided for the consumption of alcoholic beverages on this property during the time period commencing four hours before the start of a scheduled collegiate football game at Autzen Stadium and ending when the game is completed;
3. The exemption applies only to the parking area on this property;
4. Providing alcohol to minors and consumption of alcohol by minors is prohibited;
5. The sale of alcohol is prohibited;
6. Disorderly conduct will not be tolerated; and
7. Persons violating the law or creating a nuisance are subject to eviction and loss of parking privileges pursuant to the authority of the property owner or parking lot operator.

The type-face for the signs shall be clear and legible and use a type-face with letters at least two inches high. The type-face for the handbills shall be clear and legible and use at least a 12 point font. The exemption authorized by this subsection (b) applies only to property of responsible persons, who may be property owners or persons with authority over parking operations on the property, who have requested the exemption using a form developed by the City. The request form shall require the property address where the exemption will apply, the name of the responsible person, and the mailing address for the responsible person. It shall be the responsible person's obligation to update the mailing address by informing the City of any changes. Exemptions are not transferable.

*(Section 4.190 amended by Ordinance No. 16961, enacted January 7, 1974; Ordinance No. 19092, enacted February 9, 1983; Ordinance No. 19221, enacted February 8, 1984; Ordinance No. 19686, enacted May 14, 1990; administratively amended by Ordinance No. 20015, enacted May 22, 1995, effective June 21, 1995; amended by Ordinance No. 20392, enacted September 26, 2007, effective October 26, 2007; and Ordinance No. 20597, enacted July 9, 2018, effective August 11, 2018, subsection (4) to sunset July 1, 2019.)*

### **4.191 Possession of Unlabeled Keg of Beer.**

- (1) All sales of kegs of malt beverages to consumers who are not licensees of the Oregon Liquor Control Commission must comply with the identification and receipt requirements specified in ORS 471.478(1).
- (2) Possession of a keg containing malt beverages which is not identified as required by ORS 471.478(1) is prohibited.

Eugene Code

- (3) A person who signs a receipt under subsection (1) of this section in order to obtain a keg, knowing the receipt to be false, or who falsifies any information required on the receipt, is guilty of false swearing as prescribed by section 4.908.
- (4) As used in this section, "keg" means any brewery-sealed, individual container of malt beverage having a liquid capacity of more than seven gallons.

*(Section 4.191 added by Ordinance No. 20160, enacted July 26, 1999, effective August 26, 1999.)*

**4.195**     **Consumption, Sale, Etc., in Dance Halls.** No person shall possess, sell or give away or otherwise dispose of or consume alcoholic liquor in a public dance hall, room or building used for public dancing, or in a public skating rink that is not licensed under the Oregon Liquor Control Act.

**4.200**     **Violations of Law Declared Nuisances.** Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic liquors in violation of the law, or a place where alcoholic liquors are kept for sale, barter or gift in violation of the law, and all alcoholic liquor, whether purchased from or through the commission or purchased or acquired from any source, and all property including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices and all furniture, furnishings and equipment, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor kept and used in such place, hereby are declared to be a common nuisance. Any person who maintains or assists in maintaining the common nuisance is guilty of a violation of this chapter.

**4.205**     **Seizure of Property Upon Arrest; Forfeiture Proceedings.** When an officer arrests a person for violation of sections in this chapter regulating liquor, the officer may take into the officer's possession all alcoholic liquor and other property included under the preceding section, which the person arrested has in the person's possession, or on the person's premises, which apparently is being used or kept in violation of this chapter. If the person arrested is convicted, and the court finds that alcoholic liquor and other property have been used in violation of this chapter, such forfeiture proceedings as are authorized by state law may be instituted.

*(Section 4.205 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.210**     **Licensee Responsible for Acts of Employees, Etc.** A licensee is responsible and liable to prosecution for violation of a provision of this chapter pertaining to the licensee's licensed premises and for an act or omission of a servant, agent or employee of such licensee in violation of a provision of this chapter.



## Eugene Code

*(Section 4.210 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.215 Convictions Reported to State Liquor Control Commission.** When a conviction is obtained against a licensee of the commission of a violation of any provision of the Oregon Liquor Control Act or violation of an ordinance which in any way involved alcoholic liquor, the municipal court or police department shall notify the commission of the conviction.

*(Section 4.215 amended by Ordinance No. 19092, enacted February 9, 1983.)*

**4.230 Inhaling Toxic Vapors Prohibited.** No person shall smell or inhale toxic vapors for the purpose of causing a condition of intoxication, inebriation, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system.

*(Section 4.230 added by Ordinance No. 19240, enacted April 18, 1984.)*

**4.240 Use or Possession of Less than One Ounce of Marijuana.**

*(Section 4.240 added by Ordinance No. 18848, enacted July 29, 1981 and repealed by Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.241 Use of Marijuana Items in Public Place.**

- (1) No person shall engage in the use of marijuana items in a public place.
- (2) For purposes of this section, “marijuana items” and “public place” have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

*(Section 4.241 added by Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.242 Marijuana in Public View.**

- (1) No person may produce, process, or store homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates if the homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates can be readily seen by normal unaided vision from a public place.
- (2) For purposes of this section, “produce,” “process,” “homegrown,” “homemade,” “cannabinoid products,” “cannabinoid concentrates,” and “public place” have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

*(Section 4.242 added by Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

## FORFEITURE

**4.245** **Forfeiture - Definitions.** As used in sections 4.245 to 4.255, unless the context requires otherwise, the following words and phrases mean:

**Attempt** has that definition provided in ORS 161.405.

**Contraband.** Personal property, articles or things, including but not limited to controlled substances or drug paraphernalia, that a person is prohibited by Oregon statute or local ordinance from producing, obtaining or possessing.

**Controlled substance** has that definition provided in ORS 475.005(6), except that this shall not include less than one avoirdupois ounce of marijuana.

**Criminal conspiracy.** That defined in ORS 161.450.

**Deliver or delivery** has that definition provided in ORS 475.005(8).

**Illegal activity:**

- (a) Unlawful possession of a controlled substance as defined in ORS 475.992(4);
- (b) The manufacture or delivery of controlled substances;
- (c) The possession of controlled substances with intent to deliver;
- (d) Theft activity; or
- (e) Criminal conspiracy to commit one of the crimes mentioned in (a) to (d) of this paragraph.
- (f) An attempt to commit one of the crimes mentioned in (a) to (e) of this paragraph.

**Law enforcement purposes.** Those purposes which may reasonably be expected to result in the identification, apprehension or conviction of criminal offenders.

**Manufacture** has that definition provided in ORS 475.005(14).

**Production** has that definition provided in ORS 475.005(19).

**Property.** Any interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property, including currency, instruments or securities or any other kind of privilege, interest, claim or right whether due or to become due.

**Property used to promote illegal activity.** Property that has a substantial connection to, or is instrumental in, the commission of illegal activity.

**Substantial connection.** There is a substantial connection to an illegal activity when property is used, or intended to be used in any manner, in the course of, in furtherance of, derived from, or realized through an illegal activity.

**Theft activity.** Includes all forms of attempted theft and theft contained in ORS 164.005 to ORS 164.140.

*(Section 4.245 added by Ordinance No. 19577, enacted September 26, 1988; and amended by Ordinance No. 20242, enacted January 14, 2002, effective February 15, 2002.)*

**4.247 Forfeiture.**

- (1) Except as provided in subsections (2) and (3) of this section, property used to promote illegal activity is hereby declared to be a public nuisance and is subject to forfeiture by the city in accordance with Article XV, section 10 of the Oregon Constitution and the procedures of section 4.253 of this code. The following property is subject to forfeiture under this code:
  - (a) Any controlled substance which is intended for or has been manufactured or delivered.
  - (b) Any raw material, product, container, equipment, book, record, research material (including formula, microfilm, magnetic tape and data) of any kind which is used, or is intended for use in an illegal activity.
  - (c) Any conveyance including aircraft, vehicle or vessel which is used to manufacture or deliver or in any manner to facilitate the manufacture or delivery of any controlled substance or any such conveyance which is used to transport or conceal any controlled substance.
  - (d) Any money, negotiable instrument, security or other thing of value furnished or exchanged or intended to be furnished or exchanged by or to any person to facilitate any illegal activity, and any proceed or profit traceable to such furnishment, exchange or illegal activity.
  - (e) Any proceed, profit or thing of value traceable to any illegal activity.
  - (f) Any equipment, material or record of any sort that is used, or intended for use to facilitate any illegal activity.
  - (g) Any real property which is used to possess, manufacture or deliver any controlled substance.
- (2) This section shall not apply to residential real property which is used to facilitate the possession, manufacture or delivery of marijuana, or is used for theft activity, unless the city proves beyond a reasonable doubt that the real property or equity therein was acquired with assets derived from illegal activity for which the owner of the property was convicted.

- (3) In a civil forfeiture proceeding under sections 4.245 to 4.255, if a financial institution claiming an interest in the property demonstrates that it holds an interest, its interest shall not be subject to forfeiture. If a person claiming an interest in the property, other than a financial institution or a defendant charged with or convicted of a crime involving that property, demonstrates that the person has an interest in the property, that person's interest shall not be subject to forfeiture unless the city proves by clear and convincing evidence that the person took the property or the interest with the intent to defeat the forfeiture, or the person is later convicted of a crime as described in section 4.253(1).

*(Section 4.247 added by Ordinance No. 19577, enacted September 26, 1988; and amended by Ordinance No. 20242, enacted January 14, 2002, effective February 15, 2002.)*

**4.249**     **Exemption.** Sections 4.245 to 4.255 shall not apply to those unlawful acts defined in ORS 166.720(1) and (2).

*(Section 4.249 added by Ordinance No. 19577, enacted September 26, 1988; and amended by Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002.)*

**4.251**     **Forfeiture - Seizure.** Any property subject to forfeiture to the city under section 4.247 may be temporarily seized by any police officer on behalf of the city without issuance of court process when:

- (a) The seizure is incident to a lawful arrest or search under a search warrant or an inspection under an administrative search;
- (b) A police officer lawfully seizes the property under ORS 133.525 to 133.703 and has probable cause to believe that the property has been used or is intended for use in or to facilitate illegal activity;
- (c) The property subject to seizure has been the subject of a prior judgment in favor of the city in a forfeiture proceeding under this code;
- (d) The property is directly or indirectly dangerous to the health or safety of any person; or
- (e) An owner consents to the seizure.

*(Section 4.251 added by Ordinance No. 19577, enacted September 26, 1988; and amended by Ordinance No. 20242, enacted January 14, 2002, effective February 15, 2002.)*

**4.253**     **Forfeiture - Institution of Legal Proceedings.**

- (1) The city manager may institute a forfeiture proceeding in rem to obtain a judgment of forfeiture against property seized under section 4.251 or subject to forfeiture under section 4.247. No judgment of forfeiture shall be allowed or entered until and unless the owner of the property is convicted of a crime and the property is found by clear and convincing evidence to have been instrumental in committing or facilitating the crime or the proceeds of that crime. The value of the property sought to be forfeited shall not be excessive and shall be substantially proportional to the specific conduct for which the owner of the property has been convicted.

## Eugene Code

- (2) Notwithstanding the provisions of subsection (1) of this section, if, following notice to all persons known to have an interest or who may have an interest, no person claims an interest in the seized property or if the property is contraband, a judgment of forfeiture may be allowed and entered without a criminal conviction.
- (3) The proceedings for the forfeiture of the property shall be in accordance with the Oregon Rules of Civil Procedure and any person claiming an ownership interest in the property may file an answer and have the right to a jury trial.

*(Section 4.253 added by Ordinance No. 19577, enacted September 26, 1988; and amended by Ordinance No. 20242, enacted January 14, 2002, effective February 15, 2002.)*

### **4.255 Forfeiture - Disposition of Property.**

- (1) Prior to obtaining any forfeiture judgment, any money, security and negotiable instrument that is not retained by the seizing law enforcement agency for evidentiary purposes shall be deposited with the city finance officer pending the outcome of the forfeiture proceeding. Other property shall be kept in the custody of the city manager, or the manager's designee, until a forfeiture judgment is obtained.
- (2) When a judgment of forfeiture is obtained under sections 4.245 to 4.255, the property or proceeds shall be distributed or applied as required by state law.
- (3) For Fiscal Year 2002, as authorized by state law, forfeiture funds deposited in the general fund of the city need not be used exclusively for drug treatment but may be used for all purposes except law enforcement purposes. For Fiscal Year 2003 and thereafter, forfeiture funds deposited in the general fund of the city shall be used exclusively for drug treatment for residents of the City of Eugene.
- (4) The city shall annually report the nature and disposition of all property and proceeds seized for forfeiture or forfeited to a state asset forfeiture oversight committee created under Article XV, section (11) of the Oregon Constitution.

*(Section 4.255 added by Ordinance No. 19577, enacted September 26, 1988; and amended by Ordinance No. 20242, enacted January 14, 2002, effective February 15, 2002.)*

## AMUSEMENTS, GAMES AND GAMBLING

- 4.265** **Professional Carnivals Prohibited; Exceptions.** No person shall sponsor, operate, set-up, conduct or carry on a carnival within the city except an amateur carnival conducted by a school, or a religious or charitable organization; provided, that no carnival shall be operated for more than one day; provided further, that the proceeds from any carnival are used for educational, religious or charitable purposes.
- 4.300** **Booths, Enclosures, Etc., Obstructing View Prohibited.** No person shall maintain in a poolroom, card room or similar resort, a booth, enclosure, screened-off portion of such room or other obstructed portion in which games or cards, dice or other devices can be played shut off from observation from a portion of the main poolroom, card room or similar place. All rooms must be open and accessible to inspection at all times.
- 4.305** **Playing Games in Rooms, Booths, Behind Screens, Etc., Prohibited.** No person shall play or permit to be played cards, dice or other games, in a room, enclosure, or booth or behind screens or other obstruction. All such games shall be played in such manner that they may at all times be inspected and seen from all and any portion of the poolroom, card room or similar place.
- 4.310** **Playing Pool, Billiards, Etc., for Money - Prohibited.**
- (1) No person shall play or carry on, open, or cause to be opened, or conduct either as owner, proprietor or employee, whether for hire or not, any game of billiards, pool or a bowling game commonly played with balls and pins, whenever such games shall be played for money, checks, credits or any other representative value.
  - (2) When such games as are enumerated in subsection (1) are played for money, checks, credits, or any other representative of value, the same shall be deemed to be gambling games.

## ANIMAL REGULATIONS

**4.330** **Animal Control - Definitions.** For purposes of sections 4.330 to 4.500 of this chapter, the following words and phrases mean:

**Animal.** Any nonhuman mammal, bird, reptile, amphibian or fish.

**Animal agency.** Any public or private organization whether called a pound, kennel, shelter, society, or the like, that controls, shelters, cares for or disposes of dogs and cats as all or a part of the purposes of the organization. Animal agency does not include a veterinarian in private practice. Animal agency does include the agency's officers, agents and employees when acting in the name of or on behalf of the agency.

**Animal control officer.** A city community service specialist or person employed by the Animal Regulation Authority and empowered to enforce provisions of these animal regulations, including issuing citations pursuant to section 2.770 for violations of sections 4.330 to 4.490.

**Animal regulation authority.** The animal control enforcement authority appointed by the city manager to enforce and administer the provisions of sections 4.330 to 4.490.

**Animal technician.** A person performing duties under the supervision of a veterinarian and

- (a) is an animal technician as defined in ORS 686.350, or
- (b) has received a certificate in animal technology or a comparable certificate from a recognized college or university approved by the Oregon State Veterinary Medical Examining Board or by the American Veterinary Medicine Association.

**At large.** A dog or other animal inside the corporate limits of the city, off the premises of the owner, and not under complete control by adequate leash. A dog in field training or a dog in an area designated as a dog-off-leash area within a city park, is exempted unless the dog causes personal injury or property damage off the premises of the owner. This exception does not apply to any dog identified as a potentially dangerous dog under section 4.435 to 4.445.

**Barking dog.** A dog which persistently barks or howls and thereby unreasonably deprives a person of peace and quiet.

**Commercial breeding kennel.** A place of business for the breeding and/or selling of dogs. The term is not intended to include an animal hospital or noncommercial kennel.

## Eugene Code

**Commercial kennel.** A place of business where dogs are boarded. No more than two of the dogs shall be used for breeding. The term is not intended to include an animal hospital or noncommercial kennel.

**Continuous annoyance.** Permit any animal to cause annoyance, alarm or disturbance for more than 15 continuous minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.

**Dangerous animal.** Any animal, other than a dog, which has the propensity to bite or attack any person without provocation and the capacity to inflict serious harm on that person. It shall be presumed that any animal, other than a dog, which has injured a human being on two occasions without provocation is a dangerous animal.

**Director.** The administrative head of the animal regulation authority, or the administrative head's designee.

**Dog.** Any mammal of the Canidae family.

**Dog-off-leash area.** Any area within a city park designated by the city manager or the city manager's designee as an area in which dogs may be allowed to run off leash.

**Dog owner.** Any person who is the licensed owner of a dog, or who has a right of property in a dog, or who harbors a dog or who has it in their care, possession, custody or control or who knowingly permits a dog to remain on any premises occupied by the person. Except for purposes of sections 4.425 and 4.430, owner does not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period of less than 30 days dogs owned by other persons. Any person, except a veterinarian or commercial kennel operator, who resides where a dog is kept, harbored or cared for shall be presumed to be the owner of that dog. This presumption may be rebutted by proof that such person has no property right in the dog, is not the licensed owner, and is neither harboring nor caring for the dog.

**Employment and industrial zone.** Property zoned as "employment and industrial" by Chapter 9 of this Code.

**Euthanasia.** Putting an animal to death in a humane manner by a licensed veterinarian or a certified euthanasia technician.

**Field training.** A dog on exhibition in a dog show or a dog in obedience or field training exercises which is out of general automobile traffic and under



## Eugene Code

the direct supervision of a handler who has in the handler's possession proof of obedience title or certificate of obedience for the animal in question.

**Good animal husbandry.** Includes, but is not limited to the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

**Hearings official.** A person appointed by the city manager to hear and determine matters as provided in sections 4.330 to 4.490.

**Leash.** Any humane device constructed of rope, leather strap, chain or other sturdy material not exceeding eight feet in length, being held in the hand of a person capable of controlling the animal to which it is attached.

**Livestock.** Includes but is not limited to any cattle, llamas, sheep, horse, goat, swine, fowl, and any fur-bearing animal bred and maintained commercially or otherwise within pens, cages and hutches.

**Muzzle.** A device constructed of strong, soft material or metal that complies with specifications to be adopted by the director. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

**Neutered.** The removal of the ovaries and uterus, ovarian hysterectomy, in female dogs. The removal of the male gonads in male dogs. Any other method of neutering a dog which is certified and performed by a licensed veterinarian.

**Noncommercial dog kennel.** An establishment or premises where four or more dogs, over six months of age, are kept or maintained, whether by owners of the dogs or by persons providing facilities and care, and whether or not for compensation, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period. No more than two of the dogs shall be used for breeding. The term does not include any animal hospital. For purposes of this definition, if the "premises" consists of a lot that contains a main dwelling and an accessory dwelling unit, the "premises" means the lot.

**Pet or domestic animal.** Any animal that is owned or possessed by a person, other than livestock.

**Physical injury.** Impairment of physical condition or substantial pain.

**Police animal.** A dog or horse used in police work under the control of a peace officer as defined in ORS 161.015, who has successfully qualified in

the care and use of a police animal as required by state statutes, whether or not the animal is being so used at the time in question. Unless specifically referred to therein, neither a police service animal nor the officer using it is subject to any of the restrictions or regulations contained in sections 4.330 to 4.495 of this chapter.

**Possess.** To have physical possession or otherwise to exercise dominion or control over property.

**Potentially dangerous dog.** A dog that has been found to engage in behavior specified in section 4.435.

**Private practice of veterinarian medicine.** The private practice of veterinarian medicine has its ordinary meaning, and includes private animal hospitals or clinics under the supervision or control of a veterinarian. The phrase also includes the agents and employees of a private animal hospital and clinic when acting in the name of or on behalf of such hospital or clinic.

**Put to death.** The taking of an act or series of actions for the purpose of intentionally causing death.

**Secure enclosure.** A structure in which an animal is confined such that the animal does not have access to humans or other animals. The structure will not be less than eight feet long, four feet wide and five feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than one foot to prohibit the digging out of the animal. The top of the structure must be covered.

**Serious physical injury.** Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

**Service animal.** Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Consistent with federal rules implementing the Americans with Disabilities Act, a miniature horse that has been individually trained to do work or perform tasks for the benefit of the individual with a disability may also be considered a service animal. The work or tasks performed by a service animal must be directly related to the handlers' disability. Examples of work or tasks include, but are not limited to, assisting individuals who are vision impaired with navigation and other tasks, alerting individuals who are hearing impaired to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or

the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

**Veterinarian.** A person licensed by the State of Oregon to practice veterinarian medicine.

**Watchdog.** A dog confined at a business for the exclusive use of protecting people or property of said business.

*(Section 4.330, formerly Section 4.355, renumbered by Ordinance No. 19461. Section 4.355 amended by Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18640, enacted June 9, 1980; Ordinance No. 18730, enacted December 10, 1980; Ordinance No. 18945, enacted April 14, 1982; Ordinance No. 19171, enacted August 8, 1983; Ordinance No. 19315, enacted March 11, 1985; renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19505 enacted October 12, 1987; Ordinance No. 19542, enacted March 16, 1988, effective March 26, 1988; Ordinance No. 19587, enacted December 12, 1988; Ordinance No. 19615, enacted May 22, 1989; Ordinance No. 19686, enacted May 14, 1990; Ordinance No. 19792, enacted August 5, 1991; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20417, enacted August 11, 2008, effective June 12, 2009; Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011; Ordinance No. 20528, enacted May 14, 2014, effective June 23, 2014; and Ordinance No. 20594, enacted June 11, 2018, effective July 1, 2018.)*

#### **4.335 Animal Abuse.**

- (1) Animal abuse in the second degree.** A person commits the offense of animal abuse in the second degree if, except as otherwise authorized by law or as provided in subsection (2) of this section, the person causes physical injury to an animal.
- (2) Animal abuse in the first degree.** A person commits the offense of animal abuse in the first degree if, except as otherwise authorized by law, the person:
  - (a) Causes physical injury to a service animal; or
  - (b) Causes serious physical injury to an animal; or
  - (c) Cruelly causes the death of an animal.
- (3)** Any practice of good animal husbandry is not a violation of this section.

*(Section 4.335 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19587, enacted December 12, 1988; and Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011.)*

#### **4.340 Animal Neglect.**

- (1)** As used in this section, "minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

## Eugene Code

- (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
  - (b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.
  - (c) In the case of pet or domestic animals, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and which has adequate bedding to protect against cold and dampness.
  - (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
  - (e) Pet or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest. The air temperature in a confinement area must be suitable for the animal involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health.
- (2) Animal neglect in the second degree. A person commits the offense of animal neglect in the second degree if, except as otherwise authorized by law, the person fails to provide minimum care for an animal in such person's custody or control.
- (3) Animal neglect in the first degree. A person commits the offense of animal neglect in the first degree if, except as otherwise authorized by law, the person:
- (a) Fails to provide minimum care for an animal in such person's custody or control; and
  - (b) Such failure to provide care results in serious physical injury or death to the animal.

*(Section 4.340 changed to 4.460, and new Section 4.340, added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19587, enacted December 12, 1987; and Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011.)*

**4.345 Exemption for Livestock, Rodeo Animals and Commercially Grown Poultry.** Unless gross negligence can be shown, the provisions of sections 4.335 and 4.340 shall not apply to the treatment of livestock being transported by owner or common carrier, animals involved in rodeos or similar exhibitions or commercially grown poultry.

*(Section 4.345, formerly "Cruelty to Animals," changed by Ordinance No. 19461, enacted April 13, 1987.)*

**4.350 Animal Abandonment.**

- (1) A person commits the offense of animal abandonment if the person leaves a domesticated animal at a location without providing for the animal's continued care.

- (2) It is no defense to the offense defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

*(Section 4.350 changed to Section 4.485, and new section 4.350 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 10505, enacted October 12, 1987; and Ordinance No. 19587, enacted December 12, 1987.)*

**4.353      Forfeiture of Rights in Mistreated Animal; Costs; Disposition of Animal.**

- (1) In addition to and not in lieu of any other penalty it may impose, a court may require a defendant convicted under 4.335 to 4.350 to forfeit any rights of the defendant in the animal subjected to abuse, neglect or abandonment, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to abuse, neglect or abandonment.

- (2) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to the animal regulation authority for further disposition in accordance with this chapter. This subsection shall not constitute or authorize any limitation upon the right of the animal regulation authority. A transfer of rights under this subsection constitutes a transfer of ownership.

*(Section 4.353 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)*

**4.360      Entry Onto Private Land.** Any animal control officer or any peace officer shall have the privilege of entering onto private land in the course of the officer's duties in enforcing the provisions of this code, but such officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

*(Section 4.360, formerly section 4.445 renumbered by Ordinance No. 19461. Section 4.445 added by Ordinance No. 19171, enacted August 8, 1983, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.365      Care of Stray Animals.** All persons must turn over to the animal regulation authority stray animals immediately after the person exercises authority over the animal or must notify the animal regulation authority of the description of the animal and the address where the animal is being kept and retain possession of the animal for three days after the animal regulation authority is so notified.

*(Section 4.365 added by Ordinance No. 19461, enacted April 13, 1987.)*

**4.370      Impoundment of Animals.**

- (1) Any peace officer or animal control officer may impound an animal that is in violation of this code.
- (2) The animal regulation authority shall impound an animal if the owner of the animal has not posted bail or paid a fine for a violation of this code imposed by the municipal judge. For any animal so seized the notice

## Eugene Code

and disposition of the animal shall be in the same manner as for licensed dogs under the provisions of this code.

- (3) Any person whose property has been trespassed upon by any dog in violation of this code or who observes a dog trespassing upon the property of another, or who observes a dog killing, chasing or injuring livestock, may immediately apprehend that dog and hold the dog until delivery to an animal control officer, or to any peace officer. Any person who so impounds a dog must immediately notify the animal regulation authority of such impoundment. No person who has impounded a dog under this subsection shall fail to notify the animal regulation authority immediately.
- (4) If an animal control officer or a peace officer has probable cause to believe that a dog is a potentially dangerous dog level 1, 2, 3, or 4, then he/she may impound the dog. If the officer has probable cause to believe that the dog is a potentially dangerous dog level 5, then he/she shall impound the dog. The officer shall hold the dog until a hearing on the classification is held pursuant to section 4.440, or until the dog is to be redeemed or disposed of pursuant to sections 4.385 and 4.390 of this chapter.
- (5) If an animal control officer or a peace officer has probable cause to believe that any animal which is in an unoccupied motor vehicle may be in danger of dying, then they may enter the motor vehicle and impound the animal and leave a notice in the vehicle where the animal may be reclaimed.
- (6) If there is probable cause to believe that any animal is being subjected to treatment in violation of 4.335 to 4.350, a peace officer, after obtaining a search warrant in the manner authorized by law, may enter the premises where the animal is being held, provide food and water and impound such animal. If after reasonable search the owner or person having custody of such animal cannot be found and notified of the impoundment, such notice shall be conspicuously posted on such premises and within 72 hours after the impoundment such notice shall be sent by certified mail to the address, if any, at which the animal was impounded.

*(Section 4.370 changed to 4.465, and new section 4.370 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)*

**4.375**     **Failure to Surrender Animal**. No person shall fail to surrender an animal to a person identifiable as an animal control officer or a peace officer upon their demand, so that the animal can be impounded or quarantined as provided for by this chapter.

*(Section 4.375 changed to section 4.395, a new section 4.375 added by Ordinance No. 19461, enacted April 13, 1987; and amended by Ordinance No. 19505, enacted October 12, 1987.)*

**4.380 Resisting an Animal Control Officer or Peace Officer.**

- (1) "Resists" as used in this section means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.
- (2) No person shall intentionally resist someone known by them to be a peace officer or an animal control officer who is enforcing any provision of this chapter.

*(Section 4.380 added by Ordinance No. 19461, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.385 Impounding Regulations and Disposition of Impounded Animals.**

- (1) The animal regulation authority shall keep any animal impounded for the period of time herein specified. A daily record of such animals shall be kept at the place of impoundment and shall be made available to the public. The animal regulation authority shall dispose of such animals in accordance with the following provisions:
  - (a) An unlicensed dog or a dog for which the owner is unknown which has not been redeemed within 72 hours after impoundment may be sold, adopted or destroyed.
  - (b) Except as provided in subsection 4.385(1)(c), a licensed dog for which the owner is known which has not been redeemed within 120 hours of notification of the owner by telephone contact or by mailing or by posting at the owner's dwelling the impoundment notice, may be sold, adopted or destroyed.
  - (c) A licensed potentially dangerous dog for which the owner is known may be destroyed if the owner, after receiving notice of impoundment as provided in subsection 4.385(2):
    1. Fails to notify the animal regulation authority within 120 hours of the owner's intent to redeem the dog; or
    2. Fails to redeem the dog or appeal the classification within ten days.
  - (d) Except when state law mandates a different disposition procedure, all animals other than dogs shall be disposed of as provided in subpart 4.385(1)(a).
  - (e) Notwithstanding the previous subsections, abandoned or unwanted litters of animals aged two months or less may be destroyed immediately or, in the alternative, adopted or sold to any person. This subsection does not apply to litters impounded following a search of premises as provided in subsection 4.370(6).
- (2) Except as provided in subsection 4.385(1), the animal regulation authority shall notify the owner by telephone or by the mailing of an impoundment notice within 24 hours after impoundment that the animal will be destroyed within 120 hours after such notification. The impoundment notice shall advise the owner of the place where the animal is kept, the procedures required for the redemption of the

## Eugene Code

animal, the fees for the impoundment, daily care and redemption, and the consequences of failure to redeem the animal.

- (3)** Any animal unclaimed within 24 hours of a court order authorizing the redemption or release shall be destroyed, adopted or sold.
- (4)** If an order is entered by the municipal judge or the hearings official for an animal to be destroyed, execution of the order may be stayed for up to five years from the date of said order, providing that the dog owner and the director, within ten days of the order, present an agreement for approval to the municipal judge or the hearings official signed by both parties and providing:

  - (a)** For restitution to be paid to the person injured, if applicable, including damages resulting from the injury to or destruction of livestock, and
  - (b)** For safeguards that will help to ensure that the animal does not engage in such conduct again, including, but not limited to, requirements that the owner build a run for the animal before it is released, fence their yard or have the animal live elsewhere in a secure setting, and agree not to own any other animal on the property where the owner resides, and
  - (c)** That if the animal is found in violation of the safeguards that have been imposed, that it may be immediately impounded by an animal control officer, a peace officer or any other person and destroyed by the animal regulation authority without a further hearing, unless the animal owner requests a hearing in writing to the animal regulation authority within 24 hours after the animal owner is notified that the animal is impounded. If the owner cannot be personally notified that the animal has been impounded, the animal may be destroyed four days after a notice of impound is mailed to the owner's last known address, unless the owner requests a hearing before then. The hearing will be limited to a determination as to whether the agreement has been violated.
- (5)** If an order is entered by the municipal judge or the hearings official for an animal to be destroyed, execution of the order shall be stayed for ten days to allow the filing of a notice of appeal or a writ of review. In the event a notice of appeal is filed within ten days, the animal shall not be destroyed until the disposition of the appeal.
- (6)** Notwithstanding the previous subsections, any animal given to the animal regulation authority by the owner for disposition may be destroyed immediately or, in the alternative, adopted or sold to any person. The owner shall pay a fee for handling the unwanted animal. For purposes of this section only, an owner is a person who has had the animal in their care, possession, custody, or control for six weeks or more.



- (7) Notwithstanding the previous subsections, certain sick or injured animals may be destroyed immediately pursuant to the provisions of section 4.420 of this code.

*(Section 4.385 changed to 4.420, and a new section 4.385, formerly section 4.400 renumbered by Ordinance No. 19461. Section 4.400 amended by Ordinance 17472, enacted November 12, 1975; Ordinance No. 17741, enacted August 23, 1976, and Ordinance No. 18945, enacted April 14, 1982. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19587, enacted December 12, 1988; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.390 Impoundment - Redemption and Sale.**

- (1) Redemption of an impounded animal shall be made by exhibiting satisfactory proof of ownership and by paying the following required fees and charges:
- (a) Impoundment fee;
  - (b) Daily care fee;
  - (c) License and rabies vaccination fees, if required;
  - (d) Medical care fees, if required; and
  - (e) Potentially dangerous dog license fees, if required.
- (2) In addition to the requirements of subsection 4.390(1), a dog that has been classified as potentially dangerous shall not be released until the owner presents to the director sufficient evidence of compliance with the restrictions imposed by section 4.445. The owner shall have ten days from the time the owner receives the impoundment notice in which to comply with the potentially dangerous dog restrictions. No dog impounded because of level 5 behavior shall be released until the completion of any appeal requested by the owner of the dog pursuant to section 4.440.
- (3) Impounded animals may be sold, adopted or destroyed after the applicable holding time.
- (4) When an animal is sold or adopted out by the animal regulation authority, the purchaser shall pay any required license and rabies vaccination fees.
- (5) No impoundment charge shall be made for an animal released after
- (a) The municipal court's determination that no violation occurred.
  - (b) A potentially dangerous dog classification is successfully appealed.
- (6) No live animal shall be used, sold or given by the animal regulation authority for surgical or medical demonstration or research.
- (7) Except as otherwise provided, if after 72 hours an impounded animal cannot be sold, the animal regulation authority is authorized and empowered to destroy the animal by any humane method permitted under state law.
- (8) If an animal is adopted or sold from the animal regulation authority or from any other agency which accepts unwanted or abandoned animals,

the owner must have the animal spayed or neutered within six months from the date of sale if the animal is too young to be spayed or neutered immediately. If an animal over six months old is adopted or sold by an agency which accepts unwanted or abandoned animals, the animal shall be spayed or neutered within one month after it is turned over to its new owner. The new owner shall not fail to comply with this subsection.

- (9) No person who is the owner of an animal shall fail to reclaim it from the animal regulation authority within the time specified in the notification that the animal is ready to be released.

*(Section 4.390, formerly section 4.405. Section 4.405 amended by Ordinance No. 17472, enacted November 12, 1975, and Ordinance No. 18945, enacted April 14, 1982. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; and Ordinance No. 19505, enacted October 12, 1987.)*

#### **4.395     Licenses, Fees and Exceptions.**

**(1)     Dog licenses.**

- (a) Every owner of a dog which has a set of permanent canine teeth or has attained the age of six (6) months, whichever event occurs first, shall immediately obtain a license for the dog. If the dog owner moves into the city and the owner's dog does not have a current dog license from another city or county, the owner must obtain a license within five days of moving into the city.
- (b) Licenses shall be valid for one, two, or three years from the date of issuance or until the sale or gift of the dog, whichever first occurs.
- (c) No license shall be issued until a certificate of vaccination for rabies, valid for the term of the license is presented to the dog control authority or duly authorized issuer.
- (d) Dog owners shall renew the dog license before it becomes delinquent for as long as they own the dog.
- (e) A license tag issued to a dog owner shall be attached securely to a collar or harness on the dog for which it is issued. If a license tag is lost, the owner may obtain a duplicate license tag upon satisfactory proof of loss and payment of the required fee.

- (2)** A dog license fee shall be charged in the amount established by the city manager pursuant to section 2.020 of this code. The fee is due and payable upon the issuance of the license. A person who purchases a kennel license does not have to license the individual dogs as long as they live at the kennel. Also, a person who purchases a license for a commercial breeding kennel need not also obtain a commercial kennel or noncommercial kennel license, and a person who purchases a commercial kennel license need not obtain a noncommercial kennel license if they choose to operate such a kennel.

**(3)     License Fees - Exceptions.**

## Eugene Code

- (a) No license fee shall be required for any dog owned by a person who uses the dog as a service animal. A license shall be issued for such dog upon proper proof of rabies vaccination and upon filing of an affidavit by the owner showing such dog to come within this exemption. Such affidavit shall be filed with the animal regulation authority.
- (b) Only as part of a publicized city-wide campaign to license dogs owned by residents of the city and for a period not to exceed 30 days, periodically the city manager may waive all or part of the neutered dog license fee required in subsection (2) of this section.
- (4)** After application upon a form to be provided by the animal regulation authority, a permit may be issued to the licensed owner of a dog to use that dog as a watchdog. The fee for such permit shall be in addition to the individual dog license fee.
- (5)** If a dog is classified as a potentially dangerous dog, the owner shall obtain a separate license for the dog as well as a regular dog license. The owner shall obtain the potentially dangerous dog license within ten days of the time the dog is classified and annually thereafter. The animal regulation authority shall issue or renew a potentially dangerous dog license provided:
  - (a) The owner presents to the director sufficient evidence of compliance with the restrictions imposed by section 4.445; and
  - (b) The owner pays a potentially dangerous dog license fee in the amounts established by the city manager pursuant to section 2.020 of this code.
- (6)** If a dog owner has been fined or the dog owner's dog has been classified or registered in another state, county, or city because the dog engaged in the behaviors described in section 4.435, the owner shall notify the animal regulation authority of such classification, registration, or fine at the time the owner licenses the dog. If the director classifies the dog pursuant to section 4.440, the owner shall meet the requirements of subsections (2) and (5) above except that the initial potentially dangerous dog license fee will be as established by the city manager pursuant to section 2.020 of this code for previously classified dogs.

*(Section 4.395 formerly section 4.375, renumbered by Ordinance No. 19461. Section 4.375 amended by Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18835, enacted July 22, 1981; Ordinance No. 18945, enacted April 14, 1982; Ordinance No. 19315, enacted March 11, 1985; and Ordinance No. 19384, enacted April 28, 1986. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19587, enacted December 12, 1988; Ordinance No. 19588, enacted December 12, 1988, effective July 1, 1989; Ordinance No. 19799, enacted September 23, 1991; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011.)*

**4.400 Kennel License.**

- (1) No person shall operate a kennel, whether commercial or non-commercial, without the appropriate kennel license. Kennel licenses shall be valid from one year from the date of issuance.
- (2) No kennel license shall be issued under this section to anyone in nonconformity with chapter 9 of this code.
- (3) The following provisions shall govern revocation of licenses:
  - (a) Three or more violations of sections 4.330 to 4.490 of this chapter within a period of 12 calendar months shall result in a revocation of licenses granted under this section.
  - (b) Such revocation may occur after a hearing before the hearings official and after the licensee has been mailed a notice of a time to appear at least five days in advance of the hearing. Such notice shall include a general statement of the reasons for commencing the revocation proceedings.
  - (c) The decision of the hearings official shall be final.

*(Section 4.400 changed to section 4.385, and a new section 4.400 added by Ordinance No. 19461, enacted April 13, 1987.)*

**4.403 Filing of Rabies Vaccination Certificate, Issuance of Tag.**

- (1) Upon the rabies vaccination of any dog, the veterinarian performing the vaccination shall transmit a copy of the vaccination certificate to the Lane County Health Administrator.
- (2) The animal regulation authority shall be responsible for the administration of this section.
- (3) A rabies tag fee, and a tag replacement fee, may be established for those dogs required to be licensed pursuant to section 4.395 of this code, and the fees shall be set pursuant to section 2.020 of this code. Upon receipt of the fee, a serial-numbered rabies tag, identifying its expiration date, may be issued to the owner of the dog.
- (4) Information received from a veterinarian identifying any owner, address or phone number, or rabies tag serial number, shall be considered a part of the veterinarian's customer list, and will not be disclosed except to the following, who shall keep it confidential as permitted by law:
  - (a) Oregon Department of Human Services;
  - (b) The animal regulation authority;
  - (c) A physician, or any emergency medical personnel, treating a patient who has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease;
  - (d) A veterinarian treating an animal that has been bitten, scratched, or who may have been otherwise exposed to a zoonotic disease; and
  - (e) Federal, state, and local law enforcement and prosecutorial agencies investigating potential rabies transmission.

*(Section 4.403 added by Ordinance No. 20342, enacted and effective March 9, 2005.)*

**4.405 Uses of Watchdog.** Any business using a watchdog shall conspicuously post the premises to warn the public of the watchdog. The dog shall not be allowed access to the public that is on the property during business hours. If the dog is used outside of a building, the property shall be fenced in a way to prohibit the dog access to any public right-of-way and other property.

*(Section 4.405 changed to 4.390, and a new section 4.405 added by Ordinance No. 19461, enacted April 13, 1987.)*

**4.410 Reporting of Biting Animals.** The owner of an animal susceptible to rabies which bites a human being or a service animal shall immediately notify the animal regulation authority or the Lane County Health Officer of such bite, the time and circumstances of such bite and the name and address of the person bitten, if known.

*(Section 4.410 formerly 4.425. Section 4.425 added by Ordinance No. 17472, enacted November 12, 1975, and amended by Ordinance No. 18730, enacted December 10, 1980. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011.)*

**4.415 Biting and Rabid Animals - Quarantine.**

- (1)** When the animal regulation authority, Eugene Police Department, or the departments of public health and human services or public safety of Lane County has grounds to suspect that an animal is infected with the disease of rabies, there shall be delivered to the owner of the animal a written notice thereof. The animal shall thereupon be quarantined at the owner's expense as provided by state law. The biting of any person by the animal shall constitute adequate grounds for suspecting the animal to be so infected. The delivery of the notice to a member of the owner's family 15 years of age or older at the premises where the animal is kept or at the owner's usual place of abode, shall be delivery of notice to the owner.
- (2)** Any animal that has been bitten by another animal proved to be rabid shall be destroyed.
- (3)** If an animal exhibits symptoms of rabies while it is under quarantine, the director of the department of health and human services for Lane County may order in writing that it be destroyed and its head be submitted as directed to the Oregon State Public Health Laboratory.

*(Section 4.415 changed to section 4.450, and a new section 4.415, formerly section 4.430, renumbered by Ordinance No. 19461. Section 4.430 amended by Ordinance No. 17472, enacted November 12, 1975, and Ordinance No. 18730, enacted December 10, 1980. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.420 Sick or Injured Animals.**

- (1)** Any sick or injured animal found by a peace officer or animal control officer off the premises of its owner shall be delivered to its owner if it is feasible to do so. Any such animal for which the owner is either unknown or cannot be reached after reasonable attempts to do so, may be impounded. The director shall determine whether the animal is so

severely injured or incurably crippled that the humane thing to do would be to destroy the animal. If the director reasonably believes the animal should be destroyed, the animal may be destroyed immediately. If the director reasonably believes that the animal should not be destroyed and that treatment is necessary, the animal may be delivered by the animal regulation authority to a veterinarian for medical treatment. If the veterinarian determines that treatment should be given, such treatment may be given; provided, however, the animal may be destroyed if not claimed by its owner within 72 hours after being delivered to the veterinarian.

- (2) Any peace officer or animal control officer may humanely destroy any animal too severely injured to move and not on the property of its owner, when the owner is either unknown or cannot be reached after reasonable attempts to do so.
- (3) Arrangements for fees, selection of veterinarians, liability of veterinarians, etc., shall be as determined by separate contracts between the animal regulation authority and individual veterinarians.
- (4) The owner of the animal shall be liable to the veterinarian and to the animal regulation authority for all expenses which are incurred for the care of said animal.

*(Section 4.420, formerly 4.430, amended by Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18730, enacted December 10, 1980, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; and Ordinance No. 19587, enacted December 12, 1988.)*

#### **4.425 Dogs at Large Prohibited.**

- (1) No dog owner shall permit a dog to be at large.
- (2) A dog owner is deemed to be negligent per se for the actions of a dog at large, or a dog undergoing field training, or a dog in a dog-off-leash area, when the dog causes injury to a person or property.

*(Section 4.425, changed to 4.410, and a new section 4.425, formerly 4.360 added. Section 4.360 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19615, enacted May 22, 1989; and Ordinance No. 19792, enacted August 5, 1991.)*

#### **4.427 Dogs - Certain Areas Prohibited.**

- (1) Except as provided in subsection (2) of this section, no dog owner shall permit a dog to be on Alder Street, including the sidewalks thereof, between and including the southern sidewalk of East 12th Avenue and the northern sidewalk of East 14th Avenue, nor on East 13th Avenue, including the sidewalks thereof, between and including the eastern sidewalk of Pearl Street and the eastern sidewalk of Kincaid Street.
- (2) The prohibition of subsection (1) of this section does not apply to a dog owner who maintains a lawful residence within the restricted area, to a dog assisting law enforcement personnel, to a dog assisting an individual with a disability, or to a dog inside a motorized vehicle.

- (3) Unless the dog owner holds a valid dog license that certifies the dog has been vaccinated for rabies and the license is attached to a collar or harness on the dog for which it is issued, no dog owner shall permit a dog to be within the downtown core as that area is defined in section 4.871 of this code, except for the publicly owned property and rights-of-way abutting the Dining Room located at 270 W 8th Avenue.

*(Section 4.427 added by Ordinance No. 20057, enacted August 12, 1996; amended by Ordinance No. 20071, enacted November 4, 1996, effective December 4, 1996; Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011; Ordinance No. 20577, enacted March 8, 2017, effective April 10, 2017, subsections (3) and (4) to sunset November 1, 2017; and Ordinance No. 20593, enacted May 29, 2018, effective May 31, 2018.)*

**4.430 Continuous Annoyance.** No animal owner shall permit any animal to cause continuous annoyance.

*(Section 4.430 changed to 4.415, and new section 4.430, formerly 4.365 added. Section 4.365 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.435 Potentially Dangerous Dog.**

- (1) The purpose of this section is to establish a procedure whereby dogs that pose a reasonably significant threat of causing serious injury to humans, domestic animals or livestock or property are identified and subjected to precautionary restrictions in order to prevent initial or additional injuries.
- (a) Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or livestock.
  - (b) Level 2 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or service animal.
  - (c) Level 3 behavior is established if a dog, while at large, bites or causes physical injury to any domestic animal or livestock.
  - (d) Level 4 behavior is established if a dog, whether or not confined, bites or causes physical injury to any person or service animal.
  - (e) Level 5 behavior is established if:
    - 1. A dog, whether or not confined, causes the serious injury or death of any person or service animal; or
    - 2. A dog, while at large, kills any domestic animal; or
    - 3. A dog, while at large, kills any livestock; or
    - 4. A dog engages in or is found to have been trained to engage in exhibitions of fighting; or
    - 5. A dog that has been classified as a level 3 potentially dangerous dog repeats the behavior described in subsection

## Eugene Code

4.435(1)(c) after the owner receives notice of the level 3 behavior classification.

- (2) Notwithstanding subsection 4.435(1), the director shall have discretion to refrain from classifying a dog as potentially dangerous even if the dog has engaged in the behaviors specified in subsection 4.435(1) if the director determines that the behavior was a result of the victim abusing or tormenting the dog or other extenuating circumstances.
- (3) No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser on the property of a business which owns a licensed watchdog, providing the owner has complied with section 4.405.
- (4) No dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser that has illegally entered any residence.
- (5) Upon application of the dog owner accompanied by the fee established by the city manager, the restrictions for a dog classified under subsection 4.435(1) shall be reviewed by the hearings official after six months for dogs classified as Level 1 or Level 2 and after one year for dogs classified as Level 3 or higher. If the dog owner can show that the behavior which caused the classification has been corrected to the satisfaction of the hearings official, then the hearings official may enter an order modifying or deleting the classification.

*(Section 4.435 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; and Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011.)*

### **4.440 Identification of Potentially Dangerous Dogs; Appeals, Restrictions Pending Appeal.**

- (1) The director shall have the authority to determine whether any dog has engaged in the behaviors specified in section 4.435. This determination shall be based upon an investigation that includes observation of the dog's behavior by the animal regulation authority employees or by other witnesses who personally observed the behavior, sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior, if necessary. The determination may also be based on evidence that the dog's owner was fined or the dog was classified or registered in another state, county or city because the dog engaged in the behaviors specified in section 4.435.
- (2) The director shall give the dog's owner written notice by certified mail or personal service containing a description of the dog's specific behavior, classification as a potentially dangerous dog and the additional restrictions applicable to that dog by reason of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the director's decision to the hearings official within 10 days of



the date the notice was received by the owner by certified mail or the owner was personally served.

- (3) The hearings official shall hold a public hearing on any appeal from the director's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in section 4.435 shall be allowed to present testimony. The hearings official shall issue an order containing the hearings official's determination, which shall be final. The hearings official's order may include requirements that the dog's owner pay restitution to the victim, that the dog undergo training, or any other requirement that the hearings official deems reasonable under the circumstances.
- (4) Once the owner has received notice of the dog's classification as a Level 1 to Level 4 potentially dangerous dog pursuant to subsection 4.440(2), the owner shall comply with the restrictions specified in the notice, within ten days, unless the owner appeals it to the hearings official. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.
- (5) If the director finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending completion of all appeals. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.

*(Section 4.440 changed to 4.470, and a new section 4.440 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 19505, enacted October 12, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20477, enacted June 27, 2011, effective July 30, 2011.)*

#### **4.445 Regulation of Potentially Dangerous Dogs.**

- (1) In addition to the other requirements of sections 4.330 to 4.490, the owner of a potentially dangerous dog shall comply with the following additional regulations:
  - (a) If the dog has engaged in Level 1 or Level 2 behavior, the owner shall provide a physical device or structure that prevents the dog from reaching any public right-of-way or adjoining property, and shall restrict the dog by such a device or structure whenever the dog is outside the owner's home and not on a leash off the owner's property.
  - (b) If the dog has engaged in Level 3 behavior, the owner shall provide a secure enclosure and confine the dog within such enclosure whenever the dog is not on a leash off the owner's property or inside the home of the owner. The owner shall also post approved warning signs on the property where the dog is kept.
  - (c) If the dog has engaged in Level 4 or Level 5 behavior, the owner shall meet the requirements of subpart 4.445(b) and shall, additionally, not permit the dog to be off the owner's property

## Eugene Code

- unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person over the age of 18.
- (d) Any dog that has been found to have engaged in Level 4 or 5 behavior may be euthanized by order of the municipal court judge or the hearings official, provided the dog's behavior poses a significant risk of additional injury or death and the owner fails to provide sufficient evidence of compliance with the restrictions imposed by this section. In addition, the hearings official or municipal court judge has the authority to suspend, for a period of time, the Level 5 dog owner's right to be the owner of any dog in the city, including dogs currently owned by that person.
  - (e) To ensure correct identification, the owner of a dog that has been classified as potentially dangerous shall cause the dog to wear an identifying collar and ID tag. In addition, the owner of a dog that has engaged in Level 5 behavior shall have the dog marked with a permanent identifying mark.
  - (f) In addition to obtaining a regular dog license, the owner shall obtain a potentially dangerous dog license pursuant to sections 4.395(2) and 4.395(5).
  - (g) The owner of a potentially dangerous dog shall notify the director of the transfer of ownership by sale, gift or otherwise of the potentially dangerous dog and of the name and address of the person to whom the potentially dangerous dog was transferred.
- (2) No person shall own a dog in violation of this section or of the hearings official's order under subpart 4.445(1)(d).

*(Section 4.445 changed to section 4.360; a new section 4.445 added by Ordinance No. 19461, enacted April 13, 1987; amended by Ordinance No. 10505, enacted October 12, 1987; and Ordinance No. 19615, enacted May 22, 1989.)*

### **4.450 Dangerous Animals.**

- (1) No person who is the owner of a dangerous animal, or who has a right of property in, or who harbors, has in their care, possession, custody or control a dangerous animal, shall allow a dangerous animal to be exposed to the public.
- (2) A dangerous animal which has been exposed to the public may be impounded by any peace officer or animal control officer and disposed of in accordance with the provisions of this code for the impoundment and disposition of animals, except, before a dangerous animal is released, the municipal judge must enter findings that proper precautions will be taken to insure the public health and safety.
- (3) A dangerous animal running at large which because of its disposition or diseased condition is too hazardous to apprehend may be destroyed by a peace officer, animal control officer, or by a person acting in defense of that person's own self or another person.

*(Section 4.450 changed to 4.475, and a new 4.450, formerly section 4.415 added: Section 4.415 added by Ordinance No. 17472, enacted November 12, 1975. Renumbered and*

## Eugene Code

*amended by Ordinance No. 19461, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.455 Livestock Not to Run at Large.** No person who is the owner or keeper of livestock shall permit or allow the same to run or be at large or to be on or enter the premises of another person.

*(Section 4.455 changed to 4.500, and a new 4.455, formerly 4.330 added, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.460 Parking or Tethering Horses on Streets Prohibited.** No person who is the owner or keeper of a horse shall park it or tether it on a public way or allow it on a public way or in a park except under the direct control of a qualified person.

*(Section 4.460, formerly 4.340, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.465 Dog Waste Matter.** It shall be unlawful for a dog owner to allow the dog, except for seeing eye dogs, to deposit solid waste matter on any improved property other than that of the dog owner. It shall be a defense to this section if the dog owner immediately removes the solid waste.

*(Section 4.465, formerly 4.370. Section 4.370 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.470 Dead Animals - Removal of Carcasses.** No person shall knowingly permit an animal carcass owned by that person to remain on public property or to be exposed on private property.

*(Section 4.470, formerly 4.440. Section 4.440 amended by Ordinance No. 17472, enacted November 12, 1975. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.475 Animal Euthanasia.**

- (1)** No animal agency may put to death a dog or cat by any means other than an individual injection of sodium pentobarbital administered by a veterinarian, animal technician or person licensed by the Oregon State Veterinary Medical Examining Board to administer sodium pentobarbital.
- (2)** No veterinarian in private practice of veterinarian medicine may put to death a dog or cat under the veterinarian's care, custody or control by any means other than the individual injection of a drug administered by the veterinarian or animal technician.

*(Section 4.475, formerly 4.450. Section 4.450 added by Ordinance No. 18640, enacted June 9, 1980, and amended by Ordinance No. 19151, enacted May 30, 1984. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.480 Selling, Trading, Bartering or Giving Away Animals in Certain Locations Prohibited.** No person shall sell, trade, barter or give or offer to give away any animal to another person in a city park or property owned by the city.

*(Section 4.480 added by Ordinance No. 19461, enacted April 13, 1987.)*

**4.485 Sale, Etc., of Baby Chicks, Ducklings, Goslings or Rabbits.**

- (1) No baby chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium or advertising device or displayed in a store, shop, carnival or other public place.
- (2) Baby chicks, ducklings and goslings younger than four weeks of age may not be sold or offered for sale, raffled or offered or given as a prize, premium or advertising device in quantities of less than 12 birds to an individual person.
- (3) Stores, shops, vendors and others offering baby chicks, ducklings or goslings for sale, raffle or as a prize, premium or advertising device or displaying chicks, ducklings or goslings to the public shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings or goslings in good health and shall keep adequate food and water available to the birds at all times.

*(Section 4.485, formerly 4.350, renumbered and amended by Ordinance No. 19461, enacted April 13, 1987.)*

**4.490 Dogs in Season (Estrus).** No person shall permit a dog in heat (estrus) to be accessible to male dogs not in the person's ownership, except for intentional breeding purposes.

*(Section 4.490 added by Ordinance No. 19461, enacted April 13, 1987.)*

**4.500 Interference with Police Animal.**

- (1) Interference with a police animal in the second degree. A person commits the crime of interference with a police animal in the second degree if the person:
  - (a) Intentionally, knowingly or recklessly torments, interferes with or tampers with a police animal while the police animal is being used in the lawful discharge of its duty; or
  - (b) Intentionally torments or seeks to cause injury to a police animal at any time if the person knows that the animal is a police animal; or
  - (c) Causes or directs any animal to attack or otherwise interfere with a police animal while the police animal is being used in the lawful discharge of its duty. A peace officer may destroy an animal attacking a police animal if no lesser means are reasonably available to prevent injury to the police animal.
- (2) Interference with a police animal in the first degree. A person commits the crime of interference with a police animal in the first degree if the person intentionally or knowingly injures or attempts to injure an animal

Eugene Code

the person knows or reasonably should know is a police animal while  
the police animal is being used in the lawful discharge of its duty.

*(Section 4.500, formerly section 4.455. Section 4.455 added by Ordinance No. 19171, enacted August 8, 1983. Renumbered and amended by Ordinance No. 19461, enacted April 13, 1987, and amended by Ordinance No. 19686, enacted May 14, 1990.)*

Eugene Code

## **SICK LEAVE**

*(Sections 4.570 through 4.584 (sick leave provisions) added by Ordinance No. 20537, enacted July 28, 2014, effective August 29, 2014, repealed by Ordinance No. 20553, enacted June 17, 2015, effective June 18, 2015.)*

## HUMAN RIGHTS

### 4.613 Human Rights.

- (1) Findings. The city finds that discrimination on the basis of race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income and disability exists within the city. The city finds that discrimination based on race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income and disability poses a substantial threat to the health, safety and general welfare of the citizens of Eugene. The city further finds that existing state and federal prohibitions against discrimination are not adequate and, therefore, the city deems it necessary and proper to enact a local ordinance to address these issues.
- (2) Purpose. The city values the dignity and worth of all human beings and is committed to promoting justice, equity and inclusivity by respecting cultural and individual diversity and fostering mutual understanding among all people regardless of race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or disability. It is the intent of the city that all people have an equal opportunity to participate fully in the life of the city and that discriminatory barriers to equal participation in employment, housing and public accommodations be removed. The city has a compelling interest in eradicating and preventing discrimination based on race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or disability, and in ensuring equal opportunity in employment, housing and public accommodations. These code provisions represent the least restrictive means of achieving the city's objectives. In furtherance of this policy, the provisions of sections 4.613 to 4.655 of this code shall be broadly construed, consistent with their remedial purpose. The purpose of including familial status, sexual orientation, ethnicity and source of income in these nondiscrimination code provisions is to ensure that people are treated fairly and without regard to these issues in the matters of employment, housing and public accommodations. The inclusion of familial status, sexual orientation, ethnicity and source of income in these code provisions is not intended to and shall not be interpreted to establish or require affirmative action or quotas of any kind.

*(Section 4.613 added by Ordinance No. 19970, enacted July 11, 1994; and amended by Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002.)*

### 4.615 Human Rights - Definitions. For purposes of sections 4.615 to 4.655, the following shall mean:

## Eugene Code

**Age.** Age refers only to an individual 18 years of age or older; except that, for purposes of sections 4.630 and 4.635, age also refers to individuals under 18 years of age who have received a decree of emancipation from the State of Oregon pursuant to ORS 419B.552.

**Because of sex.** Includes, but is not limited to, because of pregnancy, childbirth and related medical conditions or occurrences. Women affected by pregnancy, childbirth or related medical conditions or occurrences shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work by reason of physical condition, and nothing herein shall be interpreted to permit otherwise.

**Commission.** The human rights commission of the city as established under section 2.260 of this code.

**Contractor.** All persons, wherever situated, but excluding local, state or federal units of government or their officials, from whom the city purchases goods and/or services costing \$2,500 or more in any fiscal year.

**Discriminate or discrimination.** A different and unequal treatment because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or disability.

**Domestic partnership.** A relationship between two persons who meet the following requirements: live as a family in a relationship of mutual support, caring and commitment, and intend to remain in such a relationship; neither is married or the domestic partner of any other person; are each 18 years of age or older; are not related by blood kinship closer than would bar marriage in the state of Oregon; and are mentally competent to consent to contract. Domestic partnership may also be demonstrated by having registered, certified or affirmed the relationship with any appropriate, legally established registry with substantially similar criteria within any jurisdiction in the United States.

**Employee.** Every individual who works for wages, salary or commission or a combination thereof in the service of an employer, but does not include persons employed by parents, grandparents, brothers, sisters, spouse or child. In context, the term also includes those who are seeking or applying for employment.

**Employer.** All persons, wherever situated, who employ one or more employees within the city, or who solicit individuals within the city to apply for employment within the city or elsewhere; the term includes the city itself, its boards, commissions and authorities.



**Ethnicity.** A person's cultural heritage.

**Familial status.** The relationship between one or more individuals at least one of whom has not attained 18 years of age and who is domiciled with:

- (a) A parent or another person having legal custody of the individual; or
- (b) The designee of the parent or other person having such custody, with the written permission of the parent or other person.

"Familial status" includes any individual, regardless of age or domicile, who is pregnant or is in the process of securing legal custody of an individual who has not attained 18 years of age.

**Labor organization.** An organization which is constituted for the purpose, in whole or in part, of collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment or for other mutual aid or protection in connection with employees.

**National origin.** A person's country of birth or ancestry.

**Person.** One or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

**Person with a disability.** A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment. As used herein, "major life activity" includes, but is not limited to self-care, ambulation, communication, transportation, education, socialization, employment and ability to acquire, rent or maintain property; "has a record of such an impairment" means has a history of, or has been classified as having such an impairment; "is regarded as having an impairment" means that the individual:

- (a) Has a physical or mental impairment that does not substantially limit major life activities but is treated by an employer or supervisor as having such a limitation;
- (b) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment; or
- (c) Has no physical or mental impairment but is treated by an employer or supervisor as having an impairment.

**Place of public accommodation.** Except for an institution, bona fide club, or place of accommodation which is in its nature distinctively private, any place or service offering to the public accommodations, advantages, facilities, or privileges whether in the nature of goods, services, lodgings, amusements, or otherwise.

**Sexual orientation.** Actual or perceived heterosexuality, homosexuality, bisexuality, or gender identity.

**Source of income.** The means by which a person supports his or her self and the person's dependents, including but not limited to money and property from:

- (a) Any occupation, profession, activity, contract, settlement or agreement;
- (b) Federal or state payments;
- (c) Court-ordered payments;
- (d) Gifts, bequests, annuities, life insurance policies, and compensation for any illness or injury, but excluding any money or property derived in a manner made illegal by any law, statute or ordinance.

*(Section 4.615 amended by Ordinance No. 17256, enacted February 24, 1975, Ordinance No. 17479, enacted November 24, 1975; Ordinance No. 18251, enacted August 28, 1978; Ordinance No. 19970, enacted July 11, 1994; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002; and Ordinance No. 20523, enacted January 27, 2014, effective March 6, 2014.)*

#### **4.620 Human Rights - Employment Practices.**

- (1) It shall be an unlawful employment practice:
  - (a) For an employer to refuse to hire, employ or promote, to bar or discharge from employment, or to discriminate in compensation or in terms, conditions or privileges of employment:
    - 1. Because of an individual's race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, or source of income; or
    - 2. Because an individual is a person with a disability which, with reasonable accommodation by the employer, does not prevent the performance of the work involved; or
    - 3. Because of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.  
However, discrimination is not an unlawful employment practice if such discrimination results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.
  - (b) For a labor organization to exclude or expel from its membership, or otherwise to discriminate in any way against any individual:
    - 1. Because of an individual's race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or because an individual is a person with a disability; or
    - 2. Because of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.
  - (c) For an employer or employment agency to print or circulate, or cause to be printed or circulated, any statement, advertisement, or

## Eugene Code

publication, or to use any employment application form, or make any inquiry in connection with prospective employment which expresses, directly or indirectly, any limitation, specification or discrimination, or any intent to make such limitation, specification or discrimination:

1. Because of an individual's race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or because an individual is a person with a disability; or
2. Because of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, unless based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, or unless otherwise provided by federal law.

Unless a determination is made that a designation expresses an intent to limit, specify or discriminate, identifying employees according to race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or disability does not violate this section.

- (d) For an employment agency to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate in any way against any individual:
1. Because of the individual's race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or because an individual is a person with a disability; or
  2. Because of a juvenile record, that has been expunged pursuant to ORS 419A.260 and 419A.262.

However, it shall not be an unlawful practice for an employment agency to classify or refer for employment any individual where such classification or referral results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business, or where such classification or referral is allowed under federal law.

- (e) For any person, whether an employer or an employee, to assist, induce, compel or coerce the doing of any of the acts forbidden under sections 4.613 to 4.640 of this code, or to attempt to do so.
- (f) For a vocational, professional, or trade school licensed to operate in Oregon to refuse admission to or discriminate in its admission against or discriminate in giving instruction to any otherwise qualified person because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or because an individual is a person with a disability.
- (g) For an employer, labor organization, employment agency or a local joint committee controlling apprentice training programs:

## Eugene Code

1. To deny or withhold from an individual the right to be admitted to or participate in a guidance program, an apprenticeship training program, an on-the-job training program, or other occupational training or retraining program;
2. To discriminate against an individual in the terms, conditions or privileges of such programs; or
3. To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any application form for such programs, or to make an inquiry in connection with such programs which expresses, directly or indirectly, any limitation, specification, or discrimination, or any intent to make any such limitation, specification, or discrimination, because of the race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, or source of income of any person, or because an individual is a person with a disability.

For purposes of this subsection (1), receipt or alleged receipt of treatment for a mental disorder shall not constitute evidence of a person's inability to perform the duties of a particular job or position.

- (2)** It shall be an unlawful employment practice for any person to discriminate against an individual in any manner set forth in subsection (1) of this section because of the race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income or disability of any other person with whom the individual associates.
- (3)** It shall not be an unlawful employment practice under this section:
  - (a) For a bona fide church or other religious institution, including, but not limited to, a school, hospital or church camp, from preferring an employee or applicant for employment of one religious sect or persuasion over another when:
    1. That religious sect or persuasion to which the employee or applicant belongs is the same as that of such bona fide church or other religious institution;
    2. In the opinion of such bona fide church or other religious institution, such a preference will best serve the purposes of such bona fide church or other religious institution; and
    3. The employment involved is closely connected with or related to the primary purposes of the bona fide church or other religious institution, and is not connected with a commercial or business activity which has no necessary relationship to the bona fide church or other religious institution, or to its primary purpose.
  - (b) For an employer, labor organization, employment agency or local joint committee controlling apprentice training programs to select

an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of 70 years.

- (c) For an employer or labor organization to provide or make financial provision for child care services of a custodial or other nature to its employees or members who are responsible for a minor child. As used herein, "responsible for a minor child" means having custody or legal guardianship of a minor child or acting in loco parentis to the child.
- (4) The compulsory retirement of an employee at any age shall not be an unlawful employment practice if lawful under federal law.

*(Section 4.620 amended by Ordinance No. 17256, enacted February 24, 1975; Ordinance No. 17479, enacted November 24, 1975; Ordinance No. 18251, enacted August 28, 1978; Ordinance No. 19970, enacted May 11, 1994; and Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002.)*

#### **4.625 Human Rights - Fair Employment Practice Provisions in City Contracts.**

- (1) The city and all its contracting agencies, or departments shall include in all contracts negotiated or renegotiated by them with contractors the following provisions:
  - “(1) During the performance of this contract, the contractor agrees as follows:
    - (a) The contractor will not discriminate against any employee or applicant for employment because of an individual's race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, or source of income, a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, or because an individual is a person with a disability which, with reasonable accommodation by the employer does not prevent the performance of the work involved, unless based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.
    - (b) Those contractors employing 15 or more individuals will develop and implement a plan to insure that applicants are employed, and that employees are treated during employment, without regard to race, religion, color, sex, sexual orientation, age, disability, national origin, or ethnicity. Such plan shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
    - (c) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the human rights commission setting forth the provisions of this nondiscrimination clause.

## Eugene Code

- “(2) The contractor will, prior to commencement and during the term of this contract, provide to the city such documentation, and permit any inspection of records as may be required or authorized by rules adopted by the city manager to determine compliance with paragraph (1) above.
  - “(3) If upon an investigation conducted pursuant to rules adopted by the city manager in accordance with section 2.019 of the Eugene Code, 1971, there is reasonable cause to believe that the contractor or any subcontractors of the contractor have failed to comply with any of the terms of paragraphs (1) or (2), a determination thereof shall be made in accordance with the adopted rules. Such determination may result in the suspension, cancellation or termination of the principal contract in whole or in part and/or the withholding of any funds due or to become due to the contractor, pending compliance by the contractor and/or its subcontractors, with the terms of paragraphs (1) and (2).
  - “(4) Failure to comply with any of the terms of paragraphs (1) and (2) shall be a material breach of this contract.
  - “(5) The contractor shall include the provisions of paragraphs (1) through (4) in contracts with subcontractors so that the provisions will be binding upon each subcontractor.”
- (2) The city manager shall adopt rules and regulations for implementation of this section following the procedures set forth in section 2.019 of this code.

*(Section 4.625 amended by Ordinance No. 17256, enacted February 24, 1975, by Ordinance No. 17479, enacted November 24, 1975, Ordinance No. 19083, enacted December 13, 1982; administratively amended by Ordinance No. 19732, enacted November 5, 1990; amended by Ordinance No. 19970, enacted July 11, 1994; and Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002.)*

### **4.630 Human Rights - Housing Practices.**

- (1) It shall be an unlawful housing practice for any person, because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership status, age, sexual orientation, source of income, or because an individual is a person with a disability to:
- (a) Refuse to sell, lease or rent, or otherwise make available any real property to a purchaser, lessee or renter.
  - (b) Expel a purchaser, lessee or renter from any real property.
  - (c) Make any distinction, discrimination or restriction against a purchaser, lessee or renter in the price, terms, conditions or privileges relating to the sale, rental, lease, or occupancy of real property or in the furnishing of any facilities or services in connection with the real property.
  - (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser, lessee or renter.

## Eugene Code

- (e) Publish, circulate, issue or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement or sign of any kind, relating to the sale, rental or leasing of real property which indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, or source of income, or because an individual is a person with a disability.
  - (f) Assist, induce, compel, or coerce another person to commit an act or engage in a practice that violates this subsection, and subsection (3) of this section.
  - (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected by this section.
- (2)** No person or other entity whose business includes engaging in residential real estate-related transactions shall discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership status, age, sexual orientation, source of income, or because an individual is a person with a disability. As used in this subsection (2), "residential real estate-related transaction" means the making or purchasing of loans or providing other financial assistance:
- (a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
  - (b) Securing residential real estate; or
  - (c) The selling, brokering or appraising of residential real property.
- (3)** No real estate licensee shall accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership status, age, sexual orientation, source of income, or because an individual is a person with a disability.
- (4)** No person shall, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership status, age, sexual orientation, source of income, or because an individual is a person with a disability.
- (5)** For purposes of this section, receipt or alleged receipt of treatment for a mental disorder shall not constitute evidence of a person's inability to acquire, rent or maintain property.
- (6)** For purposes of this section, discrimination includes:

## Eugene Code

- (a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for such modifications on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or,
  - (b) A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
- (7)** It shall be an unlawful housing practice to discriminate against an individual in any manner set forth in subsections (1) to (4) of this section because of the race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership status, age, sexual orientation, source of income, or disability of any other person with whom the individual associates.
- (8)** The prohibition against discrimination, distinction, or restriction because of sex in subsections (1) and (3) of this section do not apply if the real property involved is such that the application of subsections (1) and (3) of this section would necessarily result in common use of bath or bedroom facilities by unrelated persons of opposite sex.
- (9)** The prohibition against discrimination, distinction, or restriction because of source of income in subsections (1), (2), and (3) of this section does not forbid:
  - (a) Inquiry into and verification of source and amount of income;
  - (b) Inquiry into, evaluation of, and decisions based on the amount, stability or creditworthiness of any income or source of income;
  - (c) Screening prospective purchasers and tenants on bases not prohibited by this code;
  - (d) Refusal to contract with a governmental agency under 42 USC 1437f(a) (Section 8).
- (10)** The prohibition against discrimination, distinction, or restriction because of sexual orientation in subsection (1) of this section does not apply:
  - (a) Where the lessor is renting rooms in an individual dwelling unit occupied by the lessor as the lessor's residence; or
  - (b) To the rental of space in a bona fide church or other religious institution or organization, including churches, synagogues, religious schools, and other facilities used primarily for religious purposes.
- (11)** The prohibition against discrimination, distinction or restriction because of familial status and age in this section does not apply with respect to housing for older persons. For the purpose of this subsection, "housing for older persons" means housing:



## Eugene Code

- (a) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined by the state or federal program;
  - (b) Intended for, and solely occupied by, persons 62 years of age or older; or
  - (c) Intended and operated for occupancy by at least one person 55 years of age or older per unit. Housing qualifies as housing for older persons under this subparagraph if:
    - 1. Significant facilities and services are specifically designed to meet the physical or social needs of older persons or, if provision of such facilities and services is not practicable, such housing is necessary to provide important housing opportunities for older persons;
    - 2. At least 80 percent of the dwellings are occupied by at least one person 55 years of age or older per unit; and
    - 3. Policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older are published and adhered to.
- (12)** Housing shall not fail to meet the requirements for housing for older persons if:
- (a) Persons residing in such housing as of September 13, 1988 do not meet the requirements of subsections (a) or (b) of subsection (11) of this section. However, new occupants of such housing shall meet the age requirements of subsections (b) or (c) of subsection (11) of this section; or
  - (b) The housing includes unoccupied units. However, such units are reserved for occupancy by persons who meet the age requirements of subsections (b) or (c) of subsection (11) of this section.
- (13)** Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

*(Section 4.630 amended by Ordinance No. 17256, enacted February 24, 1975; Ordinance No. 17479, enacted November 24, 1975; Ordinance No. 19970, enacted July 11, 1994; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002.)*

### **4.635 Human Rights - Public Accommodations Practices.**

- (1)** It shall be an unlawful public accommodations practice for a place of public accommodation, a person acting on behalf of a place of public accommodation, or for any person to assist a place of public accommodation or a person acting on behalf of such place to:
- (a) Make any distinction, discrimination or restriction against any person because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership

## Eugene Code

- status, age, sexual orientation, source of income, or because an individual is a person with a disability; or
- (b) Publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of such place of public accommodation will be refused, withheld from or denied to, or that any discrimination will be made against, any person because of race, religion, color, sex, national origin, ethnicity, marital status, familial status, domestic partnership status, age, sexual orientation, source of income, or because an individual is a person with a disability, except as provided by laws governing the consumption of alcoholic beverages by minors and the frequenting of minors in places of public accommodation where alcoholic beverages are served, and except for special rates or services offered to persons 55 years old and older.
- (2) It shall be an unlawful public accommodations practice for any place of public accommodation, or any person acting on behalf of such place, to discriminate in any manner described in this section because of the race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or disability of any other person with whom the individual associates.
- (3) It shall be an unlawful public accommodations practice for a place of public accommodation, a person acting on behalf of a place of public accommodation, or for a person to assist such a place or person, to fail or refuse to offer visitation privileges to the domestic partner of an inmate, patient or resident on the same basis as those privileges are offered to the spouses of other similarly situated inmates, patients or residents. For purposes of this paragraph, "place of accommodation" shall be construed to include, but shall not be limited to, the following:
- (a) A jail or other place of incarceration;
  - (b) A funeral home;
  - (c) A hospital or other health care facility; and
  - (d) A residential facility for the care or treatment of elderly persons or persons with mental or physical disabilities, afflictions, or diseases.

*(Section 4.635 amended by Ordinance No. 17256, enacted February 24, 1975; Ordinance No. 19970, enacted July 11, 1994; and Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002.)*

**4.640**     **Human Rights - Engaging in Reprisal or Retaliation.** It shall be an unlawful practice for any person to penalize or discriminate in a manner prohibited by sections 4.613 to 4.640 or to engage in a reprisal or retaliation against an individual because that individual in good faith has opposed the use of a practice forbidden by sections 4.613 to 4.640, or has filed a

complaint, testified, assisted or participated in an investigation, proceedings, or hearing under sections 4.613 to 4.640, or has attempted to do so.

*(Section 4.640 amended by Ordinance No. 19970, enacted July 11, 1994.)*

**4.645 Human Rights - Enforcement.**

- (1) Initiation.** Unless a different procedure is established by administrative order of the city manager pursuant to section 2.019 of this code, an individual claiming to be aggrieved by a practice prohibited by sections 4.613 to 4.640, may:

  - (a) Within the time limits prescribed in section 4.650, file a request for mediation with designated staff, on forms available from the staff. The individual may, at the same time, or at any subsequent time within the limits prescribed in section 4.650, file a complaint pursuant to subparagraph (b) of this subsection. Filing a request for mediation, however, shall not constitute a timely filing for purposes of complying with the time limitations on filing a complaint prescribed in section 4.650 of this code.
  - (b) File a complaint with the state of Oregon Bureau of Labor & Industries (BOLI), or such other enforcement agency as the city manager shall contract with for administration and enforcement of sections 4.613 to 4.640 of this code, on forms available from the commission.
- (2) Mediation.**

  - (a) Within ten working days of receipt of a request for mediation, the staff shall determine whether the request is consistent with the standards for mediation established in commission rules and shall notify the parties whether mediation is to occur. If the mediation request is accepted, the notice shall inform the parties of the identity of the mediator and shall establish a time for mediation to occur, which is not later than 60 days from the date the request was filed. Participation in mediation is voluntary, and either party may reject the offer to mediate. Mediation shall be an informal process conducted in accordance with rules and standards established by the commission. If the request does not meet the commission's mediation standards, the request shall be denied.
  - (b) Mediation sessions are not open to the public, but any resolution of the dispute reached through mediation shall not be final until filed with the commission.
  - (c) In the event either party rejects mediation, fails to appear at the time mediation is scheduled, or the mediation does not result in a settlement, the mediation request will be dismissed.
- (3) Complaints filed with enforcement agency.**

  - (a) Pursuant to its contract with the city, BOLI, or such other enforcement agency with whom the city contracts, is authorized to enforce the provisions of sections 4.613 to 4.640 of this code in accordance with its adopted procedures and applicable state law.

## Eugene Code

- (b) Complaints filed by persons claiming to be aggrieved by a practice prohibited by sections 4.613 to 4.640 of this code shall be processed and enforced by the enforcement agency in the same manner, and with the same enforcement powers as afforded to the enforcement agency under state law for violation of comparable state statutes.
  - (c) If a complaint is found to be justified, the complainant shall be entitled to the same remedies as afforded a complainant under comparable state statutes.
  - (d) Orders issued by an enforcement agency pursuant to this section shall be viewed as one issued by a hearings officer employed by the city within the meaning of ORS 46.045(3) and shall be fully enforceable by the city.
- (4) **Private Right of Action.** Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of sections 4.620 to 4.640 of this code shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. Such persons shall be subject to the procedural limitations that apply to similar grievances under state law, as provided in ORS 659A.870 to 659A.885. The court may grant such relief as it deems appropriate, including, but not limited to, such relief as is provided in ORS 659A.885.

*(Section 4.645 amended by Ordinance No. 17256, enacted February 24, 1975; by Ordinance No. 17479, enacted November 24, 1975; Ordinance No. 19970, enacted July 11, 1994; and Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002.)*

**4.650**     **Human Rights - Limitation of Action.** No complaint shall be accepted nor action taken unless filed within one year from the date of the occurrence of the alleged unlawful practice. Where the alleged unlawful practice is of a continuing nature the limitation period shall not commence to run until the unlawful practice has ceased.

*(Section 4.650 amended by Ordinance No. 17479, enacted November 24, 1975; and Ordinance No. 19970, enacted May 11, 1994.)*

**4.655**     **Human Rights - Exemption.** In addition to any specific exemptions set forth in sections 4.613 to 4.650 of this code, it shall not be unlawful for a person to fail to comply with sections 4.613 to 4.650:

- (a) When compliance would substantially burden a person's exercise of religion; and
- (b) When exempting that person from the application of sections 4.613 to 4.650 of this code would not impede the objectives sought to be advanced by those sections, as described in section 4.613 of this code.

*(Section 4.655 added by Ordinance No. 19970, enacted July 11, 1994.)*

## MORALS AND PUBLIC CONDUCT

**4.670 Unruly Gatherings - Definitions.** As used in sections 4.672, 4.990(1), and 4.996(5) and (6) of this code, the following words and phrases mean:

**Alcoholic liquor.** An alcoholic beverage containing more than one-half of one percent of alcohol by volume.

**Host.** To invite or to receive persons to a social gathering on property of which one has control as owner, lessee, tenant or licensee.

**Organize.** To encourage attendance (at an unruly gathering).

**Response costs.** The costs associated with responses by law enforcement, fire and other emergency response providers to unruly gatherings, including but not limited to:

- (a) Salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with unruly gatherings, and the administrative costs attributable to such response(s);
- (b) The cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured while responding to, remaining at or leaving the scene of an unruly gathering.
- (c) The cost of repairing any city equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of an unruly gathering.

**Juvenile.** Any person under eighteen years of age.

**Minor.** Any person under twenty-one years of age.

**Unruly gathering.** A party or gathering where alcohol is served or consumed, and where any two or more of the following behaviors occur on the property where the gathering takes place or on adjacent property:

- (a) Any violation of state or city of Eugene laws relating to the sale, service, possession or consumption of alcoholic liquor;
- (b) Assault, as defined in section 4.729 of this code;
- (c) Menacing, as defined in section 4.730 of this code;
- (d) Harassment, as defined in section 4.726 of this code;
- (e) Intimidation, as defined in section 4.731 of this code;
- (f) Disorderly conduct, as defined in section 4.725 of this code;
- (g) Noise disturbance, as defined in sections 4.080 – 4.084 of this code;
- (h) Criminal mischief, as defined in sections 4.780 and 4.782 of this code;
- (i) Public urination or defecation, as defined in section 4.770 of this code;

## Eugene Code

- (j) Littering, as defined in section 6.805 of this code, by a person who attended the party or gathering; and
- (k) Unlawful use or explosion of fireworks, as prohibited by ORS 480.120 or section 4.934 of this code.

**Owner.** The person or entity listed as the owner in the Lane County property tax records.

### **Property.**

- (a) Any dwelling unit or group of dwelling units at a single street number address, including but not limited to a house, duplex, triplex, apartment(s), condominium(s) or other structure(s) with one or more dwelling units, hotel or motel room(s);
- (b) A hall, meeting room or other structure that serves as a gathering place;
- (c) Any private real property adjacent to, and under the same ownership as, the location of a structure described in section (a) or (b) of this definition;
- (d) Public right-of-way.

“Property” does not include a restaurant, bar or tavern.

**Twelve-month period.** The twelve months immediately preceding the most recent citation.

*(Section 4.670 added by Ordinance No. 20504, enacted January 28, 2013, effective March 2, 2013; and amended by Ordinance No. 20532, enacted June 23, 2014, effective June 24, 2014.)*

### **4.672 Unruly Gatherings – Provisions.**

- (1) No person shall organize or host an unruly gathering if the person knows or reasonably should know that it is an unruly gathering.
- (2) It is an affirmative defense to a citation issued for a violation of subsection (1) of this section that the person who organized or hosted an unruly gathering contacted the police as soon as any of the violations or offenses listed in the definition of “unruly gathering” occurred.
- (3) A person who violates subsection (1) of this section shall be subject to a fine prescribed by subsection (1) of section 4.990 of this code. In addition, a person who is convicted of violating subsection (1) of this section for a second time, and for any additional time, within a twelve-month period shall pay an administrative civil penalty in the amount of response costs, regardless of whether the offense occurred at the same or a different property, as provided in subsection (5) of section 4.996 of this code.
- (4) If an unruly gathering occurs at the same private property more than three times in a twelve-month period, the owner of the property shall be liable for response costs for the fourth and any subsequent occurrence

## Eugene Code

that occurs within a twelve-month period of three other occurrences at the same property.

- (5) After an unruly gathering occurs at a private property, and after any future occurrence of an unruly gathering at the same property, city staff will notify the owner(s) of the property. The notice shall include a copy of this ordinance and a description of the owner's potential liability for response costs under subsection (4) of this section.
- (6) If a juvenile violates subsection (1) of this section or is the owner of the property and the juvenile is or, but for the juvenile's age would be, responsible for payment of response costs under this section, the person's parent(s) or legal guardian(s) are responsible for response costs.
- (7) Financial liability under this section is joint and several.

**(8) Appeals.**

- (a) If a civil penalty is imposed upon a property owner as provided in subsection (4) of this section and subsection (6) of section 4.996 of this code, the property owner or owner's agent may appeal the determination that a violation occurred or amount of the penalty to the city manager in accordance with section 2.021 of this code.
- (b) In an appeal under this section, when determining to what extent, if any, the owner should be responsible for response costs, the city manager shall consider evidence of the following actions on the part of the property owner to prevent or abate the nuisance, even if unsuccessful:
  - 1. On the first occurrence of an unruly gathering, the owner or owner's agent issued a written warning to the residents of the dwelling unit where the unruly gathering occurred that future violations may result in initiation of eviction proceedings.
  - 2. On the second occurrence of an unruly gathering at the same dwelling unit, the owner or owner's agent issued a written notice that termination of the rental agreement will be initiated for the tenant(s) responsible for any future unruly gatherings.
  - 3. On the third occurrence of an unruly gathering at the same dwelling unit, the owner or owner's agent initiated eviction proceedings against the tenant(s) responsible for the unruly gathering.
  - 4. Prior to the fourth occurrence of an unruly gathering, new tenants replaced those who committed the previous violations, and the owner or owner's agent implemented reasonable precautions to deter or prevent any additional unruly gatherings.
- (c) In an appeal by an owner of property where ten or more dwelling units are located, if no more than two of the violations occurred at the same dwelling unit, the city manager shall consider, in addition

to the factors listed in subsection (8)(b) of this section, whether the owner or owner's agent implemented other measures to prevent or discourage unruly gatherings. Such measures may include, but are not limited to, employing a resident manager, providing a local agent who is accessible to tenants at all times for emergencies, hiring on-site security, and including behavioral standards in the rental agreement.

*(Section 4.672 added by Ordinance No. 20504, enacted January 28, 2013, effective March 2, 2013.)*

**4.680 Acts Prohibited at Night.**

- (1) Between the hours of 10:00 p.m. of one day and 6:00 a.m. of the succeeding day, no person shall:
  - (a) Be in a cemetery without authorization.
  - (b) Drive or park a motor vehicle in a cemetery without authorization.
- (2) Between the hours of 11:00 p.m. of one day and 6:00 a.m. of the succeeding day, no person shall be in a city park unless driving, bicycling, walking or otherwise moving through the park on lawful business within the public street right-of-way or officially-designated bicycle path or sidewalk, or authorized to be in the park by the city manager or the manager's designee.
- (3) Upon finding it to be in the public interest and consistent with council goals and policies, the council may, by motion, exempt a special event from the prohibitions of subsection (2) of this section. The motion shall specify the period of time and location covered by the exemption.

*(Section 4.680 amended by Ordinance No. 16952, enacted December 17, 1973; Ordinance 18775, enacted April 15, 1981; Ordinance No. 19570, enacted July 13, 1988; Ordinance No. 20062, enacted September 16, 1996, effective October 16, 1996; Ordinance No. 20122, enacted June 8, 1998, effective July 8, 1998; Ordinance No. 20149, enacted March 15, 1999; Ordinance No. 20196, enacted May 8, 2000, effective June 7, 2000; Ordinance No. 20232, enacted August 6, 2001, effective September 5, 2001; and Ordinance No. 20262, enacted August 12, 2002, effective September 12, 2002; Subsection (3) deleted and Subsection (4) amended and renumbered (3) by sunset provision of Ordinance No. 20232, effective March 23, 2003.)*

**4.685 Prohibition of Unaccompanied or Unemancipated Minors From Being in Public Places During Certain Hours.**

- (1) No minor under 18 years of age shall be in or upon any street, highway, park, alley or other public place between the hours of 12 midnight and 4 a.m. of the following morning, unless:
  - (a) Such minor is accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;
  - (b) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or
  - (c) The minor is emancipated pursuant to ORS 109.550 to 109.565.



Eugene Code

- (2) Any minor who violates subsection (1) of this section may be taken into custody as provided in ORS 419.569 and may be subjected to further proceedings, as provided in ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990.

*(Section 4.685 amended by Ordinance No. 19462, enacted April 13, 1987.)*

- 4.700 Soliciting, Etc., Delinquent Acts by a Minor.** No person shall solicit, aid, abet, or cause a minor under the age of 18 years to:
- (a) Violate a law of the United States, or of a state, or to violate a city or county ordinance.
  - (b) Do an act which endangers the health, safety, or welfare of the minor or of another person.
  - (c) Run away or conceal themselves from a person or institution having lawful custody of the minor.

*(Section 4.700 administratively amended by Ordinance 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.705 Offensive Physical Contact Prohibited.**

- (1) No person shall cause or attempt to cause another person reasonably to apprehend that the person will be subjected to offensive physical contact either to their person or to personal property in the person's immediate possession.
- (2) This section shall not apply to any activity otherwise made lawful including, but not limited to, lawful protesting activity and lawful picketing activity.

*(Section 4.705 added by Ordinance No. 19999, enacted January 25, 1995, effective February 24, 1995.)*

**4.707 Pedestrians.**

- (1) No person shall block or interfere with, or attempt to block or interfere with, any person along a public sidewalk by any means, including but not limited to standing on that part of the sidewalk used for pedestrian travel or placing any object or vehicle in such area, with the intent to interfere with free passage.
- (2) No person shall block or interfere with, or attempt to block or interfere with, pedestrian or vehicular entrances to public or private property abutting a public sidewalk with the intent to interfere with the free ingress to or egress from such property.
- (3) This section shall not apply to any activity otherwise made lawful including, but not limited to, lawful protesting activity and lawful picketing activity.

*(Section 4.707 added by Ordinance No. 19999, enacted January 25, 1995, effective February 24, 1995.)*

- 4.710 Telephonic Harassment.** A telephone caller commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person:
- (1) By causing the telephone of the other person to ring, such caller having no communicative purpose; or
  - (2) By causing such other person's telephone to ring, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.
  - (3) By sending to, or leaving at, the other person's telephone a text message, voice mail or any other message, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.
  - (4) It is an affirmative defense to a charge of violating this section that the caller is a debt collector, as defined in ORS 646.639, who engaged in the conduct proscribed by this section while attempting to collect a debt. The affirmative defense created by this subsection does not apply if the debt collector committed the unlawful collection practice described in ORS 646.639(2)(a) while engaged in the conduct proscribed by this section.

*(Section 4.710 added by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005; and amended by Ordinance No. 20358, enacted January 23, 2006, effective January 25, 2006.)*

- 4.725 Disorderly Conduct.** A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:
- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or
  - (b) Makes unreasonable noise; or
  - (c) Disturbs any lawful assembly of persons without lawful authority; or
  - (d) Obstructs vehicular or pedestrian traffic on a public way; or
  - (e) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
  - (f) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or
  - (g) Creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.

*(Section 4.725 amended by Ordinance No. 16697, enacted January 22, 1973; Ordinance No. 18358, enacted August 30, 1978; Ordinance No. 18267, enacted September 20, 1978; Ordinance No. 19162, enacted July 11, 1983; Ordinance No. 19268, enacted July 23, 1984, and Ordinance No. 19462, enacted April 13, 1987.)*

- 4.726 Harassment.**
- (1) A person commits the crime of harassment if the person intentionally:
    - (a) Harasses or annoys another person by:

## Eugene Code

1. Subjecting such other person to offensive physical contact;  
or
  2. Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;
- (b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or
- (c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.
- (2) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.

*(Section 4.726 added by Ordinance No. 19462, enacted April 13, 1987, amended by Ordinance No. 19686, enacted May 14, 1990; and Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002.)*

### **4.727     Disruption of Council Meetings.**

- (1) No person shall at a meeting of the council willfully disrupt or obstruct the work of or the conducting of the business of the council.
- (2) The following definitions apply:
- (a) Willfully implies simply a purpose or willingness to commit the act or omission referred to and does not require any intent to violate law or injure another or acquire any advantage.
  - (b) To disrupt or obstruct shall mean any act or action that does or could reasonably be expected to prevent those present at the meeting from carrying out the purpose or purposes for which the meeting is held in and at the time and place provided.
  - (c) The work of or the conducting of the business of the council refers to the process of receiving and reviewing testimony and other evidence, discussing, considering, debating and voting on matters on the agenda of the council and other matters properly before it.

*(Section 4.727 added by Ordinance No. 16307, enacted October 11, 1971.)*

### **4.728     Recklessly Endangering Another Person.** A person commits the crime of recklessly endangering another person if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

*(Section 4.728 added by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005.)*

### **4.729     Assault.** A person commits the crime of assault if the person:

Eugene Code

- (a) Intentionally, knowingly or recklessly causes physical injury to another;  
or
- (b) With criminal negligence causes physical injury to another by means of a deadly weapon;
- (c) "Physical injury" means impairment of physical condition or substantial pain.

*(Section 4.729 added by Ordinance No. 19269, enacted July 23, 1984, and amended by Ordinance No. 19462, enacted April 13, 1987.)*

**4.730**     **Menacing.** A person commits the crime of menacing if by word or conduct the person intentionally attempts to place another person in fear of imminent serious physical injury.

*(Section 4.730 amended by Ordinance No. 18826, enacted July 13, 1981, Ordinance No. 18935, enacted February 24, 1982; Ordinance No. 19269, enacted July 23, 1984, and Ordinance No. 19462, enacted April 13, 1987.)*

**4.731**     **Intimidation in the Second Degree.**

- (1) A person commits the crime of intimidation in the second degree if the person:
  - (a) Tampers or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another because of the person's perception of the other's race, color, religion, national origin or sexual orientation;
  - (b) Intentionally subjects another to offensive physical contact because of the person's perception of the other's race, color, religion, national origin or sexual orientation; or
  - (c) Intentionally, because of the person's perception of race, color, religion, national origin or sexual orientation of another or of a member of the other's family, subjects such other person to alarm by threatening:
    - 1. To inflict serious physical injury upon or to commit a felony affecting such other person, or a member of the person's family; or
    - 2. To cause substantial damage to the property of the other person or of a member of the other person's family.
- (2) For purposes of this section, "property" means any tangible personal property or real property, and "sexual orientation" means heterosexuality, homosexuality or bisexuality.

*(Section 4.731 added by Ordinance No. 18826, enacted July 13, 1981; amended by Ordinance No. 19462, enacted April 13, 1987, and Ordinance No. 19686, enacted May 14, 1990.)*

**4.735**     **Conduct on "Drive-In" Premises.** No person on the premises of a drive-in restaurant, bank, theater, business, public parking facility or other public or private property where parking or drive-in facilities are offered and extended to the public for use shall needlessly do any of the following: race the motor

## Eugene Code

of any motor vehicle; bring to a sudden start or stop any motor vehicle; impede the orderly movement of vehicles or pedestrian traffic on such premises; or use a horn on a motor vehicle otherwise than as a reasonable warning.

*(Section 4.735 amended by Ordinance No. 19462, enacted April 13, 1987.)*

### **4.740 Extreme Fighting – Prohibited.**

*(Section 4.740 added by Ordinance No. 20375, enacted January 8, 2007, effective February 9, 2007; and repealed by Ordinance No. 20416, enacted July 28, 2008, effective August 30, 2008).*

### **4.745 Prostitution.**

- (1) A person commits the crime of prostitution if:
  - (a) The person engages in or offers or agrees to engage in sexual conduct or sexual contact in return for a fee; or
  - (b) The person pays or offers or agrees to pay a fee to engage in sexual conduct or sexual contact.
- (2) As used in this section:
  - (a) "Prostitute" means a male or female person who engages in sexual conduct or sexual contact for a fee.
  - (b) "Sexual conduct" means sexual intercourse or deviate sexual intercourse.
  - (c) "Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.

*(Section 4.745 amended by Ordinance No. 18069, enacted October 24, 1977, and Ordinance No. 19462, enacted April 13, 1987.)*

### **4.746 Designation of Prostitution-Free Zones.**

- (1) The chief of police may designate an area of the city as a prostitution-free zone if the chief determines that, during the previous six months, the number of offenses listed in section 4.745 of this code is 50% higher than that for other similarly sized geographic areas of the city that are not located within a prostitution-free zone.
- (2) The chief of police shall designate an area as a prostitution-free zone by following the rulemaking procedures described in section 2.019 of this code.
- (3) The designation of an area as a prostitution-free zone shall expire after two years unless the chief of police renews the designation pursuant to the procedures described in subsection (2) of this section.

*(Section 4.746 added by Ordinance No. 20205, enacted August 7, 2000, effective September 6, 2000.)*

### **4.747 Civil Exclusion.**

- (1) The municipal court shall exclude a person for a period of ninety (90) days from the public streets, alleys, sidewalks and other public ways in all prostitution-free zones designated pursuant to section 4.746 of this

## Eugene Code

code if the person has been arrested based upon probable cause within any prostitution-free zone for any prostitution related activities including the following offenses, unless the offense was committed entirely within a private residence:

- (a) Prostitution, in violation of section 4.745 of this code or ORS 167.007;
  - (b) Promoting prostitution, in violation of ORS 167.012;
  - (c) Compelling prostitution, in violation of ORS 167.017;
  - (d) Attempts as defined in section 4.015 of this code or ORS 161.405 to commit the crimes listed in subsections (a), (b) and (c) above.
- (2) The municipal court shall exclude a person for a period of one (1) year from the public streets, alleys, sidewalks and other public ways in all of the prostitution-free zones if the person is convicted of any of the offenses enumerated in subsection (1) of this section if that offense was committed within any prostitution-free zone.
- (3) Except as allowed under section 4.750 of this code, a person excluded under authority of this section may not enter any prostitution-free zone except to:
- (a) Attend a meeting with an attorney;
  - (b) Attend a scheduled meeting with a medical or social service provider;
  - (c) Comply with court- or corrections-ordered obligations;
  - (d) Contact criminal justice personnel at a criminal justice facility;
  - (e) Travel through a prostitution-free zone on a Lane Transit District vehicle; or
  - (f) Travel to and from the person's residence, if the residence is in the prostitution-free zone.
- (4) While in a prostitution-free zone, a person who is otherwise excluded may only travel directly to and from the obligations enumerated in (3)(a) - (f) of this section.
- (5) If an excluded person is in any prostitution-free zone in violation of the exclusion during the exclusion period, that person is subject to immediate arrest for criminal trespass in the second degree pursuant to section 4.807 of this code or ORS 164.245.

*(Section 4.747 added by Ordinance No. 20205, enacted August 7, 2000, effective September 6, 2000.)*

**4.748** **Issuance of Notice to Show Cause.** When a peace officer arrests a person or issues citation for any of the offenses enumerated in section 4.747(1) of this code, the officer shall also issue to the person being arrested or cited a Notice to Show Cause. The Notice shall require the person to appear at Municipal Court at a designated time within three (3) to five (5) business days, at which time the court will set a date and time for the hearing for the person to show cause why the person should not be excluded from all prostitution-free zones. The Notice shall contain:

- (a) The date, time and place the person is to appear;

## Eugene Code

- (b) The name of person ordered to appear;
- (c) The name of the peace officer issuing the Notice;
- (d) A brief explanation of the purpose of and procedure for the court appearance;
- (e) The following statement: "If you fail to appear at Municipal Court at the date and time set forth above, the Municipal Court will enter an order excluding you for ninety days from the parts of the City shown on the attached map;"
- (f) A statement that, if the person is convicted of the prostitution-related offense for which the person was arrested or cited, the person will be excluded from all prostitution-free zones in the city for an additional period of one year;
- (g) A map showing the prostitution-free zones; and
- (h) A brief description of the reasons for which the court may grant a variance and the procedure for requesting a variance.

*(Section 4.748 added by Ordinance No. 20205, enacted August 7, 2000, effective September 6, 2000.)*

### **4.749 Exclusion Orders - Procedure.**

- (1) At the date and time set forth in the Notice described in section 4.748 of this code, if the person appears, the court shall set a date and time for the show cause hearing, which shall be not less than five (5) nor more than fourteen (14) calendar days from the date the Notice was issued. The court may impose a temporary exclusion order, to be in effect only until the show cause hearing, if, based on a police report or an affidavit from a witness and after considering any response by the person, it appears to the court that there is probable cause to believe the person committed an offense enumerated in section 4.747(1) of this code. If the person does not appear, the court shall not schedule a show cause hearing and shall enter an order excluding the person from the prostitution-free zone for a period of ninety (90) days, effective at 12:01 a.m. the next day.
- (2) At the show cause hearing, the person shall have the opportunity to show cause why the person should not be excluded from the prostitution-free zone or should be granted a variance as provided in section 4.750 of this code.
- (3) If the court finds at the show cause hearing that there is probable cause to believe the person committed an offense enumerated in section 4.747(1) of this code, the court shall enter an order excluding the person from the prostitution-free zone for a period of ninety (90) calendar days.
- (4) If the person does not appear at the show cause hearing, the court shall enter an order of exclusion as described in subsection (1) of this section.
- (5) Upon receipt of reliable information that a person has been convicted of an offense enumerated in section 4.747(1) of this code and that the

conduct supporting the conviction occurred in a prostitution-free zone, the municipal court shall enter an order excluding the person from the prostitution-free zone for one year. The person shall be informed of the exclusion order by first-class mail sent to the person's last-known address. The excluded person may request a hearing on the exclusion. The only issues at such hearing shall be whether the person was convicted of an offense enumerated in section 4.747(1) of this code and whether the conduct supporting the conviction occurred in a prostitution-free zone. A certified copy of the conviction shall be conclusive evidence of the conviction.

- (6) A person subject to an exclusion order under subsection (1), (3), (4) or (5) of this section may apply for a variance pursuant to section 4.750 of this code.

*(Section 4.749 added by Ordinance No. 20205, enacted August 7, 2000, effective September 6, 2000.)*

**4.750**      **Variances.**

- (1) Variances shall be granted, denied or revoked in accordance with this section. All variances shall be in writing, for a specific period and only to accommodate a specific purpose, all of which shall be stated on the variance. The purpose of the variance is to allow only travel to and from locations within a prostitution-free zone according to the terms of the variance. The variance must be carried on the person while in a prostitution-free zone in order to be effective and must be presented to a police officer upon request. In the event a person having a variance is found in a prostitution-free zone in violation of the terms of the variance, that person is subject to immediate arrest for criminal trespass in the second degree pursuant to section 4.807 of this code or ORS 164.245.
- (a) General Variance. The court may for any reason grant a variance from an exclusion at any time during an exclusion period. A variance granted under this subsection allows travel only within the prostitution-free zone specified in the variance, and only according to the terms specified in the variance.
- (b) Residential Variance. The court shall grant a residential variance from an exclusion to an excluded person to allow travel within the prostitution-free zone in accordance with the terms of the variance if the excluded person certifies:
1. That the person lived in a prostitution-free zone, other than transient occupancy in a hotel or motel, when excluded; and
  2. Continues to live in the prostitution-free zone.
- A variance granted under this subsection allows travel only within the prostitution-free zone within which the residence is situated and only in accordance with the terms of the variance.
- (c) Essential Needs Variance. The court may grant an essential needs variance from an exclusion to an excluded person to allow



## Eugene Code

travel within the prostitution-free zone in accordance with the terms of the variance if the excluded person certifies:

1. That the excluded person possesses a residential variance;
2. That the excluded person must access a public or private place within a prostitution-free zone that provides an essential need; and
3. That the essential need sought by the excluded person cannot reasonably be accessed by the excluded person without violating the prostitution-free zone exclusion.

A variance granted under this subsection allows travel only within the prostitution-free zone in which the excluded person resides and only in accordance with the terms of the variance.

(d) Employment Variance.

1. The court shall grant an employment variance from an exclusion to an excluded person to allow travel within a prostitution-free zone in accordance with the terms of the variance if the excluded person certifies:
  - a. That the person was an owner, principal, agent or employee of a place of lawful employment located in a prostitution-free zone when excluded; and
  - b. Continues to be employed in the prostitution-free zone.A variance granted under this subsection allows travel only within the prostitution-free zone in which the excluded person works and only in accordance with the terms of the variance.
2. The court may grant an employment variance to an excluded person to allow travel within a prostitution-free zone in accordance with the terms of the variance if the excluded person certifies:
  - a. That the person is an owner, principal, agent or employee of a place of lawful employment; and
  - b. The excluded person will be required to perform employment-related services in a prostitution-free zone.

A variance granted under this subsection allows travel only within the prostitution-free zone in which the excluded person works and only in accordance with the terms of the variance.

(e) Social Services Variance. The court may grant a social services variance to an excluded person to allow travel within a prostitution-free zone in accordance with the terms of the variance if the excluded person certifies:

1. That the person is in need of social services in a prostitution-free zone;

## Eugene Code

2. The social services are sought for reasons relating to the health or well-being of the excluded person; and
3. The social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients.

A variance granted under this subsection allows travel only within the prostitution-free zone in which the social services agency is located and only in accordance with the terms of the variance.

(f) Educational Variance.

1. The court shall grant an educational variance to an excluded person to allow travel within a prostitution-free zone in accordance with the terms of the variance if the excluded person certifies:
  - a. That the person was enrolled as a student at an educational facility located within a prostitution free zone when excluded; and
  - b. Is currently enrolled as a student at the same educational facility.

A variance granted under this subsection allows travel only within the prostitution-free zone in which the educational facility is located and only in accordance with the terms of the variance.

2. The court may grant an educational variance to an excluded person to allow travel within a prostitution-free zone in accordance with the terms of the variance if the excluded person certifies that the person will be enrolled at an educational facility within a prostitution-free zone if the variance is granted.

A variance granted under this subsection allows travel only within the prostitution-free zone in which the educational facility is located and only in accordance with the terms of the variance.

(2) Revocation of Variances. Variances may be revoked in accordance with the following provisions:

- (a) The grounds for revocation of any variance other than a residential variance are as follows:
  1. The applicant provided false information in order to obtain the variance;
  2. The person is arrested for any of the offenses enumerated in section 4.747(1) of this code in a prostitution-free zone subsequent to the issuance of the variance; or
  3. The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance.
- (b) Residential Variance Exception: A residential variance may be revoked only:
  1. If the applicant provided false residential information in order to obtain the variance; or

## Eugene Code

2. If the circumstances giving rise to the issuance of the variance no longer support a continuation of the issuance of the variance.
- (3) Revocation Procedure.**
- (a) A peace officer who has probable cause to believe a person who has been granted a variance has violated its terms or conditions may issue to the person a Notice to Show Cause that requires the person to appear at Municipal Court at a specified date and time, at which time the court will set a date and time for a show cause hearing.
  - (b) If the person fails to appear at the time and date specified in the Notice, the court shall revoke or modify the variance. If the person does appear, the court shall set a time for a hearing, at which the person shall have the opportunity to show cause why the variance should not be revoked or modified. At the hearing, the city shall have the burden to prove by a preponderance of the evidence that the person violated the terms or conditions of the variance.
- (4) Definitions.**
- (a) Essential Needs: As used in this section, "essential needs" means food, physical care and medical attention for both physical and mental conditions.
  - (b) Travel: As used in this section and section 4.747 of this code, "travel" means the movement on foot or within or upon a vehicle within a prostitution-free zone from one point to another without delay other than to obey traffic control devices.
  - (c) Chief of Police: As used in this chapter, "chief of police" means the city manager or the city manager's designee.

*(Section 4.750 added by Ordinance No. 20205, enacted August 7, 2000, effective September 6, 2000.)*

### **4.755 Public Indecency.**

- (1)** A person commits the crime of public indecency if while in, or in view of, a public place the person performs:
- (a) An act of sexual intercourse; or
  - (b) An act of deviate sexual intercourse; or
  - (c) An act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.
- (2)** As used in this section, the terms "sexual intercourse" and "deviate sexual intercourse" have the meaning found in ORS 163.305.

*(Section 4.755 amended by Ordinance No. 16403, enacted March 13, 1972; Ordinance No. 16698, enacted January 22, 1973, and Ordinance No. 19462, enacted April 13, 1987.)*

### **4.760 Prohibited Nudity.** It shall be unlawful for any person eight years of age or older to expose their genitalia while in a public place or place visible from a

Eugene Code

public place, if the public place is open or available to persons of the opposite sex.

*(Section 4.760 added by Ordinance No. 16626, enacted September 25, 1972, amended by Ordinance No. 19462, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.770 Urinating or Defecating.** No person shall urinate or defecate in, or in view of, a public place, except in a lavatory.

*(Section 4.770 added by Ordinance No. 19268, enacted July 23, 1984.)*

**4.775 Special Response Fee.**

*(Section 4.775 added by Ordinance No. 20217, enacted November 13, 2000; and repealed by Ordinance No. 20504, enacted January 28, 2013, effective March 2, 2013.)*

## PROPERTY

**4.780**     **Criminal Mischief in the Third Degree.** A person commits the crime of criminal mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with property of another.

*(Section 4.780 amended by Ordinance No. 19462, enacted April 13, 1987.)*

**4.782**     **Criminal Mischief in the Second Degree.** A person commits the crime of criminal mischief in the second degree if:

- (a)** The person violates section 4.780, and as a result thereof, damages property in an amount exceeding \$500; or
- (b)** Having no right to do so nor reasonable ground to believe that the person has such right, the person intentionally damages property of another, or, the person recklessly damages property of another in an amount exceeding \$500.

*(Section 4.782 added by Ordinance No. 19462, enacted April 13, 1987; and amended by Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.795**     **Detention of City Books, Papers, Etc.** No person shall retain any books, papers, or property belonging to the city or the city library after the same or portion thereof, have been demanded by the city manager, librarian or other person duly authorized to make such demand, or keep possession after such demand, or refuse to allow full inspection of all books or papers belonging to the city after such demand.

**4.805**     **Trespassing - Definitions.** As used in sections 4.806 to 4.810, except as the context requires otherwise:

"**Building**," in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodation of persons or for carrying on business therein. Where a building consists of separate units, including, but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.

"**Coach**" means a person who instructs or trains members of a team or directs the strategy of a team participating in a sports event.

"**Dwelling**" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.

"**Enter or remain unlawfully**" means:

## Eugene Code

- (a) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public and the entrant is not otherwise licensed or privileged to do so; or
- (b) To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge; or
- (c) To enter premises that are open to the public after being lawfully directed not to enter the premises.

**“Inappropriate behavior”** means:

- (a) Engaging in fighting or in violent, tumultuous or threatening behavior;
- (b) Violating the rules of conduct governing coaches, team players and spectators at a sports event;
- (c) Publicly insulting another person by abusive words or gestures in a manner intended to provoke a violent response; or
- (d) Intentionally subjecting another person to offensive physical contact.

**"Open to the public"** means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

**"Person in charge"** means a person, or a representative or employee of the person who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes, but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of this state.

**"Premises"** includes any building and any real property, whether privately or publicly owned.

**“Spectator”** means any person, other than a team player or coach, who attends a sports event.

**“Sports official”** means a person who:

- (a) Serves as a referee, umpire, linesman or judge or performs similar functions under a different title; and
- (b) Is a member of, or registered by, a local, state, regional or national organization that engages in providing education and training in sports officiating.

*(Section 4.805, amended by Ordinance No. 16270, enacted July 12, 1971; Ordinance No. 19462, enacted April 13, 1987; Ordinance No. 19500, enacted September 28, 1987; Ordinance No. 20308, enacted and effective February 9, 2004; and Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.806 Criminal Trespass in the Second Degree by a Guest.** A guest commits the crime of criminal trespass in the second degree if that guest intentionally

## Eugene Code

remains unlawfully in a transient lodging after the departure date of the guest's reservation without the approval of the hotelkeeper. "Guest" means a person who is registered at a hotel and is assigned to transient lodging, and includes any individual accompanying the person.

*(Section 4.806 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.807 Criminal Trespass in the Second Degree.** A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully in a motor vehicle or in or upon premises.

*(Section 4.807 added by Ordinance No. 19462, enacted April 13, 1987; amended by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005.)*

**4.808 Criminal Trespass in the First Degree.**

**(1)** A person commits the crime of criminal trespass in the first degree if the person:

- (a) Enters or remains unlawfully in a dwelling;
- (b) Enters or remains unlawfully in or upon premises that have been determined to be not fit for use under ORS 453.855 to 453.912 as provided by administrative rules adopted by the city manager under section 2.019 of this code;
- (c) Having been denied future entry to a building pursuant to a merchant's notice of trespass, reenters the building during hours when the building is open to the public with the intent to commit theft therein; or
- (d) Enters or remains unlawfully upon railroad yards, tracks, bridges or rights of way.

**(2)** Subsection (1)(b) of this section does not apply to the owner of record of the premises if:

- (a) The owner notifies the law enforcement agency having jurisdiction over the premises that the owner intends to enter the premises;
- (b) The owner enters or remains on the premises for the purpose of inspecting or decontaminating the premises or lawfully removing items from the premises; and
- (c) The owner has not been arrested for, charged with or convicted of a criminal offense that contributed to the determination that the premises are not fit for use.

*(Section 4.808 added by Ordinance No. 19462, enacted April 13, 1987; amended by Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002; Ordinance No. 20256, enacted June 12, 2002, effective July 12, 2002; and Ordinance No. 20308, enacted and effective February 9, 2004.)*

**4.809 Criminal Trespass While in Possession of Firearm.** A person commits the crime of criminal trespass while in possession of a firearm who, while in possession of a firearm, enters or remains unlawfully in or upon premises.

*(Section 4.809 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.810 Criminal Trespass at a Sports Event.**

- (1) A sports official may order a coach, team player or spectator to leave the premises at which a sports event is taking place and at which the sports official is officiating if the coach, team player or spectator is engaging in inappropriate behavior.
- (2) A person commits the crime of criminal trespass at a sports event if the person:
  - (a) Is a coach, team player or spectator at a sports event;
  - (b) Engages in inappropriate behavior;
  - (c) Has been ordered by a sports official to leave the premises at which the sports event is taking place; and
  - (d) Fails to leave the premises or returns to the premises during the period of time when reentry has been prohibited.

*(Section 4.810 renumbered to Section 4.812, and new Section 4.810 added by Ordinance No. 20308, enacted and effective February 9, 2004.)*

**4.812 Violating Privacy of Another.**

- (1) No person, other than an officer performing a lawful duty, shall enter upon land or into a building used in whole or part as a dwelling not the person's own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.
- (2) No person shall knowingly make or record a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the person being recorded if, at the time the recording is being made or recorded, the person being recorded is in a place and circumstance where the person has a reasonable expectation of personal privacy.
- (3) No person shall, for the purpose of arousing or gratifying the sexual desire of the person, be in a location to observe another person in a state of nudity without the consent of the other person while the other person is in a place and circumstance where the person has a reasonable expectation of personal privacy.
- (4) No person shall knowingly make or record a photograph, motion picture, videotape or other visual recording of another person's intimate area without the consent of the person being recorded and the person being recorded has a reasonable expectation of privacy concerning the area.
- (5) Subsections (2) and (3) of this section shall not apply to:
  - (a) Any legitimate medical procedure performed by or under direction of a person licensed to provide medical service for the purpose of medical diagnosis, treatment, education or research, including, but not limited to, the recording of medical procedures; and



## Eugene Code

- (b) Any activity undertaken in the course of bona fide law enforcement or corrections activity or necessary to the proper functioning of the criminal justice system, including but not limited to the operation and management of jails, prisons and other youth and adult corrections facilities.
- (6) As used in subsections (2), (3), (4) and (5) of this section, the following terms and phrases mean:

**Intimate Area.** Means nudity, or undergarments that are being worn by a person and are covered by clothing.

**Make or record a photograph, motion picture, videotape or other visual recording.** Includes, but is not limited to, making or recording or employing, authorizing, permitting, compelling or inducing another person to make or record a photograph, motion picture, videotape or other visual recording.

**Nudity.** Means uncovered, or less than opaquely covered, post-pubescent human genitals, pubic areas or a post-pubescent human female breast below a point immediately above the top of the areola. Nudity includes a partial state of nudity.

**Place and circumstance where the person has a reasonable expectation of personal privacy.** Includes, but is not limited to, a bathroom, dressing room, locker room that includes an area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

**Public view.** Means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as that term is defined in Section 4.890 of this code.

**Reasonable expectation of privacy concerning the intimate area.** Means that the person intended to protect the intimate area from being seen and has not exposed the intimate area to public view.

*(Section 4.810 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002; renumbered to Section 4.812 by Ordinance No. 20308, enacted and effective February 9, 2004; and amended by Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

### **4.815 Prohibited Camping.**

- (1) As used in this section:
- (a) "To camp" means to set up or to remain in or at a campsite.

## Eugene Code

- (b) "Campsite" means any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
- (2) It is found and declared that:
  - (a) From time to time persons establish campsites on sidewalks, public rights-of-way, under bridges, and so forth;
  - (b) Such persons, by such actions create unsafe and unsanitary living conditions which pose a threat to the peace, health and safety of themselves and the community; and,
  - (c) The enactment of this provision is necessary to protect the peace, health and safety of the city and its inhabitants.
- (3) No person shall camp in or upon any sidewalk, street, alley, lane, public right-of-way, park or any other publicly-owned property or under any bridge or viaduct, unless otherwise specifically authorized by this code or by declaration of the Mayor in emergency circumstances.
- (4) Upon finding it to be in the public interest and consistent with council goals and policies, the council may, by motion, exempt a special event from the prohibitions of this section. The motion shall specify the period of time and location covered by the exemption.

*(Section 4.815 amended by Ordinance No. 19163, enacted July 11, 1983; and Ordinance 20062, enacted September 16, 1996, effective October 16, 1996.)*

### **4.816 Permitted Overnight Sleeping.**

- (1) Notwithstanding any other provision of this code:
  - (a) Persons may sleep overnight in a vehicle in a parking lot of a religious institution, place of worship, business or public entity that owns or leases property on which a parking lot and occupied structure are located, with permission of the property owner. The property owner may not grant permission for more than six vehicles used for sleeping at any one time. For purposes of this subsection (1), the term "vehicle" includes a car, tent, camper, trailer, and Conestoga hut.
  - (b) Persons may sleep overnight in the back yard of a single family residence in a residential zoning district, with permission of the owner and tenant of the residence. Not more than one family may sleep in any back yard, and not more than one tent or camping shelter may be used for sleeping in the back yard. As an alternative, but not in addition to sleeping overnight in the back yard, not more than one family may sleep in a vehicle, camper or trailer parked in the driveway of a single family residence in a residential zoning district, with permission of the owner and tenant of the residence. For purposes of this subsection, "family" means

## Eugene Code

- persons related by blood or marriage, or no more than two unrelated adults.
- (c) Persons may sleep overnight in a vehicle, on a paved or graveled surface located on a vacant or unoccupied parcel, with the permission of the property owner, if the owner registers the site with the city or its agent. The city may require the site to be part of a supervised program operated by the city or its agent. The property owner may not grant permission for more than six vehicles used for sleeping at any one time.
- (2)** A property owner who allows a person or persons to sleep overnight on a property pursuant to subsections (1)(a), (1)(b) or (1)(c) of this section shall:
- (a) Provide or make available sanitary facilities;
  - (b) Provide garbage disposal services as required by sections 6.050 and 6.055 of this code;
  - (c) Provide a storage area for campers to store any personal items so the items are not visible from any public street;
  - (d) Require a tent or camping shelter in a backyard to be not less than five feet away from any property line; and
  - (e) Not require payment of any fee, rent or other monetary charge for overnight sleeping, as authorized by this section.
- (3)** A property owner who permits overnight sleeping pursuant to subsection (1) and (2) of this section, may revoke that permission at any time and for any reason. Any person who receives permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.
- (4)** Notwithstanding any other provision of this section, the city manager or the manager's designee may:
- (a) Prohibit overnight sleeping on a property if the city finds that such an activity on that property is incompatible with the uses of adjacent properties or constitutes a nuisance or other threat to the public welfare; or
  - (b) Revoke permission for a person to sleep overnight on city-owned property if the city finds that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that the activity is incompatible with the use of the property or adjacent properties.
- (5)** The city manager or the manager's designee may impose administrative civil penalties on property owners who fail to comply with the requirements of subsections (1) and (2) of this section, as provided in section 2.018 of this code.
- (6)** In addition to any other penalties that may be imposed, any campsite used for overnight sleeping in a manner not authorized by this section or other provisions of this code shall constitute a nuisance and may be abated as such. As used in this section, "campsite" has the meaning given in section 4.815 of this code.

- (7) The city manager may adopt administrative rules in the manner provided in section 2.019 of this code to implement this section.
- (8) With authorization from the city manager or designee in connection with a specific special event, persons may sleep overnight on public property which has a community center, swimming pool, or other city-operated athletic facility located thereon at which the special event is being held. The authorization shall be limited to no more than eight days in any two-week period.
- (9) Nothing in section 4.815 or 4.816 of this code creates any duty on the part of the city or its agents to ensure the protection of persons or property with regard to permitted overnight sleeping.

*(Section 4.816 added by Ordinance No. 20130, enacted August 5, 1998; and amended by Ordinance No. 20255, enacted June 10, 2002, effective July 10, 2002; and Ordinance No. 20517, enacted and effective September 25, 2013.)*

#### **4.820 Petty Larceny.**

*(Section 4.820 amended by Ordinance No. 19500, enacted September 28, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20161, enacted July 26, 1999, effective August 26, 1999; and repealed by Ordinance No. 20446, enacted December 14, 2009, effective January 1, 2010.)*

#### **4.822 Theft.**

- (1) Theft in the Third Degree. A person commits the crime of theft in the third degree if the total value of the property in a single or an aggregate transaction is less than \$100, and the person, by means other than extortion, with the intent to deprive another of property or to appropriate property to the person or a third person:
  - (a) Takes, appropriates, obtains or withholds such property from an owner thereof; or
  - (b) Comes into control of property of another that the person knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, and with the intent to deprive the owner thereof fails to take reasonable measures to restore the property to the owner; or
  - (c) Obtains property of another, and with the intent to defraud:
    - 1. Creates or confirms another's false impression of law, value, intention or other state of mind which the actor does not believe to be true; or
    - 2. Fails to correct a false impression which the person previously created or confirmed; or
    - 3. Prevents another from acquiring information pertinent to the disposition of the property involved; or
    - 4. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to

## Eugene Code

the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

5. Promises performance which the person does not intend to perform or knows will not be performed.
- (d) Receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft. For purposes of this subsection, "receiving" means acquiring, possession, control or title, or lending on the security of the property.
- (2) Theft in the Second Degree. A person commits the crime of theft in the second degree if, by means other than extortion, the person commits a theft described in subsection (1) of this section and the total value of the property in a single or aggregate transaction is \$100 or more, but is less than \$1,000.

*(Section 4.822 added by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005; and amended by Ordinance No. 20446, enacted December 14, 2009, effective January 1, 2010.)*

### **4.825     Shoplifting.**

*(Section 4.825 amended by Ordinance No. 18943, enacted March 10, 1982; Ordinance No. 19500, enacted September 28, 1987; Ordinance No. 19686, enacted May 14, 1990; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20161, enacted July 26, 1999, effective August 26, 1999; and repealed by Ordinance No. 20446, enacted December 14, 2009, effective January 1, 2010.)*

## **PUBLIC WAYS**

- 4.830     Portion of Street Reserved for Vehicular Traffic.** No unauthorized person shall make use of the portion of the street between the curbs reserved for vehicular traffic for any other purpose than vehicular traffic, except that:
- (a) Pedestrians may cross the streets at crosswalks; and
  - (b) If authorized under the City Manager's rules for priority of placement, containers supplied by licensed solid waste and recycling firms may be temporarily placed for the purpose of regularly scheduled collection service between the curbs of streets that do not have designated bicycle lanes immediately adjacent to the curb. The containers may be placed no earlier than 7:00 p.m. of the day prior to the customer's regularly scheduled collection service, shall be removed by midnight of the day of service, and shall comply with rules adopted by the City Manager pursuant to section 2.019 of this code.

*(Section 4.830 amended by Ordinance No. 20317, enacted April 15, 2004, effective May 15, 2004.)*

- 4.831     Public Ways - Definitions.** Words and phrases used in sections 4.832 and 4.833 shall have the meaning ascribed to them in section 6.005 of this code.
- (Section 4.831 added by Ordinance 19393, enacted July 28, 1986.)*

**4.832 Public Ways - Obstructing Vegetation Prohibited.** No owner or person in charge of property shall allow vegetation on their property or on the public way abutting their property to become a nuisance as defined in section 6.010 of this code.

*(Section 4.832 added by Ordinance No. 19393, enacted July 28, 1986; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.833 Foliage - Obstruct Vision at Intersection.** No owner or person in charge of property shall plant, maintain or allow vegetation which is higher than 18 inches above the crown of the adjacent roadway in that portion of the right-of-way between the property line and the curb line within 35 feet from the intersection of curb lines, if extended, at any street, avenue or highway intersection. This provision shall also apply within 15 feet of the intersection of an alley with a street, avenue or highway right-of-way. Where curbs do not exist, no such use of right-of-way shall be made within 25 feet of the intersection of property lines if extended at the street, avenue, or highway intersection.

*(Section 4.833 added by Ordinance No. 19393, enacted July 28, 1986.)*

**4.835 Depositing Materials in Streets.**

- (1)** No person shall throw, place, deposit, scatter or drop gravel, rubbish, earth, asphalt or lumber on a paved street or alley unless deposited in one pile for immediate use; provided, that no such materials shall obstruct the flow of water through a ditch, drain or gutter. The temporary placement of containers supplied by solid waste and recycling firms in the manner and at the time authorized by this code and administrative rules of the City Manager shall not constitute a violation of this section.
- (2)** A person violating this section shall remove all such materials from the pavement, and in case of failure to do so on demand from the city manager or the city manager's designate, the city may clean the paved street of such materials and charge expense to said person.

*(Section 4.835 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20317, enacted April 15, 2004, effective May 15, 2004.)*

**4.840 Barricades - Generally.** A person who has made a portion of a public street or highway dangerous shall erect and maintain around the dangerous portion of the street or highway good and sufficient barrier, warning signs and lights as long as the danger continues. All barricades, warning signs, lights and other devices shall comply with the manual of the traffic engineering division.

**4.845 Barricades - Where Premises Below Grade of Street.** A person owning or having control of premises fronting on a public street and below the grade thereof, shall within two days after notice from the city manager or the city

manager's designate erect a suitable barricade upon the inner line of the sidewalk in front of such premises at the person's own expense.

*(Section 4.845 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.850**     **Gates Adjacent to Sidewalks.** No person owning or occupying premises shall construct or maintain a gate which shall obstruct the free use of any sidewalk adjacent to such premises. Persons maintaining a gate adjacent to a sidewalk shall construct the gate in such manner that it shall open or swing inward and not over a sidewalk.

**4.855**     **Certain Uses of Streets and Sidewalks Permitted.**

- (1) Merchandise, boxes, building materials, household goods, or other things or articles may be left on the sidewalk for not more than two hours when in the course of receipt or delivery.
- (2) Wood for fuel may be left in a street or alley for not more than 36 hours if it does not obstruct the flow of vehicular or pedestrian traffic.
- (3) Trees and shrubs which are not a nuisance or an unreasonable obstruction to pedestrian or vehicular traffic may be placed and maintained on sidewalks; provided that a permit to do so has been obtained from the city manager or the city manager's designate.
- (4) Benches may be placed on sidewalks with the permission of the city manager or the city manager's designate.
- (5) A builder may make use of a portion of the street or sidewalk when necessary for the construction of a building; provided that a permit to do so has been obtained in accordance with and subject to section 5.350.
- (6) If authorized under the City Manager's rules for priority of placement, containers supplied by licensed solid waste and recycling firms may be placed:
  - (a) On a sidewalk, provided the placement of the container(s) leaves at least three feet of the paved area of a sidewalk unobstructed;
  - (b) Between the curbs of streets that do not have designated bicycle lanes immediately adjacent to the curb, no earlier than 7:00 p.m. on the day prior to the customer's regularly scheduled collection service, and shall be removed no later than midnight of the day of the collection service, or in such other manner or place as authorized by administrative rules adopted by the City Manager pursuant to section 2.019 of this code.

*(Section 4.855 amended by Ordinance No. 19969, enacted July 21, 1994; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20252, enacted May 13, 2002, effective June 12, 2002; and amended by Ordinance No. 20317, enacted April 15, 2004, effective May 15, 2004.)*

**4.860**     **Certain Activities on Streets and Sidewalks Prohibited.** Unless otherwise authorized in this code, no person shall:

- (a) Cut or split wood on a street or sidewalk.

## Eugene Code

- (b) Carry or haul rubbish, garbage or filth on a street or sidewalk exposed so as to be offensive to pedestrians.
- (c) Give a show, exhibition or performance on a street or sidewalk.
- (d) Set up or operate a vehicle, stand or place for the display or sale of merchandise, or sell, vend, or display for sale an article in the streets or on the sidewalks or in doorways or stairways of business houses, or in any other place where such activity causes congregation and congestion of people or vehicles on the streets or sidewalks.
- (e) Place or maintain gasoline pumps or similar devices for vending volatile oils on a street or alley except under a revocable permit from the city manager.

*(Section 4.860 amended by Ordinance No. 18886, enacted October 26, 1981; Ordinance No. 19145, enacted May 25, 1983; and Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985.)*

### **4.870 Downtown Activity Zone – Purpose.**

- (1) Eugene's downtown activity zone has been developed to renew, preserve, and enhance the economic and aesthetic value of the city's central business district and to provide facilities conducive to a harmonious blend of civic, social, cultural, residential, and economic pursuits. Streets, sidewalks and public areas are designed and constructed in a manner to encourage pedestrian oriented activities, including economic and commercial activities, and to provide a pleasant place for civic and cultural events, a public market, and an urban park. One significant purpose of the downtown activity zone is to enhance the economic vitality of adjacent property. For that reason, the former downtown mall has been reopened to vehicular traffic, and a larger area has been defined. This area is intended to encourage private investment in the downtown area and to enhance the value of such investments by encouraging pedestrians to come to the area. The multiple uses of the public pedestrian areas in the downtown activity zone are to be accommodated by reserving different areas (1) as visual amenities designed for everyone's enjoyment, (2) for pedestrian uses, (3) for use by abutting merchants, (4) for uses by other commercial pursuits and (5) for public events. When compatible, such uses may also occupy the same areas of the downtown activity zone.
- (2) Within the downtown activity zone, a core area has been identified as requiring additional regulation. This core area includes a concentration of public facilities (including urban parks and plazas, a transit station and a new public library) as well as the area where the former downtown mall was located. It has traditionally received a high demand for multiple public uses, and that demand is expected to continue and increase in the future. Because of recent changes to the area, this downtown core area requires greater protection to preserve and enhance its unique qualities and uses, and additional duties and



## Eugene Code

responsibilities are therefore required of permittees and owners of property located within the boundaries of the area including, but not limited to, those set forth in section 3.344(4).

*(Section 4.870 added by Ordinance No. 16614, enacted September 11, 1972; amended by Ordinance No. 19354, enacted September 18, 1985; Ordinance No. 19605, enacted February 27, 1989; Ordinance No. 20196, enacted May 8, 2000, effective June 7, 2000; and Ordinance No. 20303, enacted November 24, 2003, effective December 24, 2003.)*

**4.871**     **Downtown Activity Zone - Definitions.** For purposes of sections 4.870 to 4.872 of this chapter, the following words shall have the meanings ascribed to them by this section:

**Admission.** A monetary fee charged for the privilege of attending, observing, or participating in an activity, event, or performance occurring in or upon public pedestrian areas in the downtown activity zone. “Admission” includes a monetary fee charged on a fixed basis or a donation basis. The charging of “admission” prevents those persons who have not paid the monetary fee from accessing the area in which the activity, event, or performance is occurring. Where access to the area is not restricted, “admission” does not include soliciting donations during an activity, event, or performance.

**Authorized activity.** Any activity for which a downtown activity permit has been issued or a city-sponsored activity.

**City manager.** The city manager or the city manager’s designee.

**City-sponsored event.** An activity carried out by a city employee in the performance of assigned duties or an activity authorized by the city manager or city council to use the city’s name.

**Commercial pursuits.** Any activity related to or connected with trade, commerce or fund raising involving the receipt of money or property, such as, but not limited to: advertising, displaying, distributing, selling, taking orders or offering to sell or take orders for goods or services; providing a place for customers to sit; fund raising activities; activities, events, and performances for which admission is charged; activities related to construction or demolition on abutting private premises.

**Display.** Visual portrayals or physical objects affixed to or standing upon public property within the downtown activity zone, including but not limited to signs, pictures, markers, inscriptions, and objects that are inanimate or mechanically or electronically animated but which remain stationary in location.

**Downtown activity permit.** A permit applied for and issued in accordance with section 3.341 of this code.

**Downtown activity zone.** Publicly-owned property and rights-of-way located within the area bounded by the centerlines of Sixth Avenue, Lincoln Street, Eleventh Avenue, and High Street, including all public improvements located therein.

**Downtown core.** Publicly-owned property and rights-of-way located within the area bounded by a line that runs from the intersection of 10<sup>th</sup> Avenue and Pearl Street, north to 8<sup>th</sup> Avenue, west on 8<sup>th</sup> Avenue to Lincoln Street, south on Lincoln Street to 10<sup>th</sup> Avenue, east on 10<sup>th</sup> Avenue to Charnelton Street, south on Charnelton Street to 11<sup>th</sup> Avenue, east on 11<sup>th</sup> Avenue to Willamette Street, north on Willamette Street to 10<sup>th</sup> Avenue, and east on 10<sup>th</sup> Avenue to Pearl Street, including sidewalks on both sides of the streets and avenues that define the area and all public improvements located therein.

**Fund raising.** Actions which directly or indirectly request anything of value from persons with whom the requestor has not been previously associated as a family member, friend or companion, and the resulting proceeds are given to a person, entity or organization other than the person engaged in the fund raising activity. "Fund raising" does not include personal solicitation.

**Impede.** To prevent progress or movement, or to engage in an activity that would deter a reasonable person from progressing or moving in the area of the activity.

**Interferes with.** A person "interferes with" an authorized activity if that person does one or more of the following:

- (a) Enters in or upon and uses an area of the downtown activity zone which has been reserved for an authorized activity for a purpose other than in accordance with the authorized use;
- (b) Engages in conduct which imminently threatens to cause or causes a speaker or performer to cease speaking or performing or threatens to cause or causes an audience to be unable to hear the speaker or performer(s);
- (c) Except when viewing or participating in an authorized activity, engages in conduct within 20 feet of an authorized activity which prevents reasonable people with normal sensitivities participating in the properly authorized activity from carrying on a normal conversation.

**Newspaper dispenser.** A box or other vending device that displays, holds or dispenses newspapers, flyers, brochures, pamphlets, newsletters or other written materials to the public, with or without requiring payment, and is intended to remain stationary in location.

## Eugene Code

**Noise disturbance.** A noise disturbance which is plainly audible to two or more persons who are located within a room with all windows and doors to the outside shut which is in a building open for business and is located within the boundaries of or is abutting the downtown core. The definitions of section 4.080(1) of this code shall apply to this definition.

**Permittee.** Includes any person designated as the applicant in the application for the downtown activity permit and any employee, agent, representative or volunteer assisting with an authorized activity.

**Public pedestrian area.** Any public sidewalk, alley, plaza, and park, excluding public areas under the primary control of entities other than the city. It also includes public streets during the time streets are closed to vehicular traffic for a city-sponsored or permitted event.

**Street entertainment.** The conducting of, presenting, or participating in musical, theatrical, cinematic, choreographic or athletic performances for which no admission is charged, and no specific area of public property is reserved for its use.

**Written material.** Any literature, pamphlet, packaging or similar material intended to communicate any message through writing.

*(Section 4.871 added by Ordinance No. 16614, enacted September 11, 1972; amended by Ordinance No. 19354, enacted September 18, 1985; Ordinance No. 19605, enacted February 27, 1989; Ordinance No. 19914, enacted April 26, 1993, effective May 26, 1993; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20196, enacted May 8, 2000, effective June 8, 2000; Ordinance No. 20303, enacted November 24, 2003, effective December 24, 2003; and Ordinance No. 20322, enacted May 25, 2004, effective June 24, 2004.)*

### **4.872 Downtown Activity Zone - Prohibited Acts.**

- (1)** Except when approved as part of an authorized activity, the following acts are prohibited in the public pedestrian areas within the downtown activity zone:
- (a) Interfering with an authorized activity.
  - (b) Impeding access to any public pedestrian area or to any public or private building adjacent to the public pedestrian area.
  - (c) Engaging in a commercial pursuit, except for personal solicitation and street entertainment.
  - (d) Placing a display.
  - (e) Placing a newspaper dispenser:
    1. Within ten feet of a street corner;
    2. Within one foot of a street curb;

## Eugene Code

3. Within one foot of, or connected or affixed by any means to, a sidewalk fixture, such as a light pole, bicycle rack, planter, bench or art work;
  4. Except with the permission of the person in charge of the building, between the central traveled portion of the adjacent sidewalk and any window abutting a public pedestrian area; or
  5. Within the central traveled portion of the sidewalk or in any other location likely to impede pedestrian traffic.
- (f) Setting up or operating a public address system or other amplified sound equipment.
- (2)** In addition to the acts prohibited in subsection (1) of this section, except when approved as part of an authorized activity, the following acts are prohibited in the public pedestrian areas in the downtown core:
- (a) Climbing any tree.
  - (b) Except for stairways, climbing any structure that is more than six feet in height on any side.
  - (c) Climbing any structure in such a manner as to create a danger of personal injury or property damage.
  - (d) Leaving a dog or other animal unattended, whether leashed or unleashed.
  - (e) Creating or continuing a noise disturbance.
  - (f) Entering into a landscaped planting area or acting in a manner harmful to any plant life, including walking, lying or sitting in a landscaped planting area. A "landscaped planting area" is any public area set aside for planting of trees, shrubs, flowers or other vegetation, except grass.
  - (g) Setting up any temporary structures or enclosures, including but not limited to canopies, tents or tables, or restricting access to any portion of the public pedestrian area so that other persons may not freely enter such area.
  - (h) Picking or cutting flowers or other vegetation from landscaped planting areas.
  - (i) Allowing a child who is in one's charge and is under 12 years old to violate any provision of this section or of section 3.344.

*(Section 4.872 added by Ordinance No. 16614, enacted September 11, 1972; amended by Ordinance No. 19354, enacted September 18, 1985; Ordinance No. 19605, enacted February 27, 1989; Ordinance No. 19841, enacted April 15, 1992, effective May 19, 1992; administratively amended by Ordinance No. 19914, enacted April 28, 1993, effective May 28, 1993; amended by Ordinance No. 19969, enacted July 21, 1994; Ordinance No. 20196, enacted May 8, 2000, effective June 8, 2000; Ordinance No. 20303, enacted November 24, 2003, effective December 24, 2003; Ordinance No. 20322, enacted May 25, 2004, effective June 24, 2004; and administratively amended September 9, 2004.)*

## DOWNTOWN PUBLIC SAFETY ZONE

*(Sections 4.873, 4.874, 4.875, 4.876, 4.877, 4.878, and 4.879 (Downtown Public Safety Zone provisions) added and amended by Ordinance Nos. 20419, 20446, 20462, 20467, 20488, and 20497 were repealed on November 30, 2013.)*

### MISCELLANEOUS

**4.880 Possession of a Burglary Tool or Theft Device.**

- (1) A person commits the crime of possession of a burglary tool or theft device if the person possesses a burglary tool or theft device and the person:
- (a) Intends to use the tool or device to commit or facilitate a forcible entry into premises or a theft by a physical taking; or
  - (b) Knows that another person intends to use the tool or device to commit or facilitate a forcible entry into premises or a theft by a physical taking.
- (2) For purposes of this section, “burglary tool or theft device” means an acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted or designed for committing or facilitating a forcible entry into premises or theft by a physical taking.

*(Section 4.880 added by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005; and clerically corrected May 1, 2008.)*

**4.882 Unlawful Entry Into a Motor Vehicle.** A person commits the crime of unlawful entry into a motor vehicle if the person enters a motor vehicle, or any part of a motor vehicle, with the intent to commit a crime. As used in this section, “enters” includes, but is not limited to, inserting any part of the body or any object connected with the body.

*(Section 4.880 added by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005.)*

**4.885 Weapons - Discharging Firearms.** Except on established ranges, no person other than a peace officer in line of duty shall discharge a gun, including spring or air-actuated pellet gun, air gun or BB gun, or other weapon which propels a projectile by use of gunpowder or other explosive, jet, or rocket propulsion.

**4.886 Weapons - Pointing Firearm at Another.** No person over the age of 12 years shall, with or without malice, purposely point or aim any loaded or

empty pistol, gun, revolver or other firearm at or toward any other person within range of the firearm, except in self defense.

*(Section 4.886 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.887 Weapons - Carrying of Concealed Weapon.**

- (1) Except as provided in subsection (2) of this section, no person shall carry concealed upon the person any knife having a blade that projects or swings into position by force of a spring or centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, slung shot, metal knuckles, nunchaku, shirika, butterfly knife, blackjack, billy club, sap, sap gloves, straight razor, bolo knife, or bayonet, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person. For purposes of this section, a dagger shall include, but is not limited to, any knife sharpened on both edges.
- (2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests.

*(Section 4.887 added by Ordinance No. 19462, enacted April 13, 1987, and amended by Ordinance No. 19686, enacted May 14, 1990.)*

**4.888 Weapons - Unlawful Possession of Firearms.**

- (1) Except as otherwise provided in this section, section 4.889, ORS 166.260, 166.270, 166.274, 166.280, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:
  - (a) Carries any firearm concealed upon the person, without having a license to carry the firearm as provided in ORS 166.291 and 166.292;
  - (b) Possesses a handgun that is concealed and readily accessible to the person within any vehicle; or
  - (c) Possesses a firearm and:
    1. Is under 18 years of age;
    2. Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;
    3. Was committed to the Mental Health and Development Disability Services Division under ORS 426.130 within four years prior to January 1, 1990; or
    4. Was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness.
- (2) This section does not prohibit:
  - (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:

Eugene Code

1. Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or
  2. Temporarily for hunting, target practice or any other lawful purpose; or
- (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270 and subsection (1) of this section, from owning, possessing or keeping within the person's place of residence or place of business any handgun, and no permit or license to purchase, own, possess or keep any such firearm at the person's place of residence or place of business is required of any such citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle while used, for whatever period of time, as residential quarters.
- (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

*(Section 4.888 added by Ordinance No. 19462, enacted April 13, 1987, amended by Ordinance No. 19686, enacted May 14, 1990; and amended by Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.889**     **Weapons - Persons Not Affected by Section 4.888.** Section 4.888 does not apply to or affect:

- (a) Sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers.
- (b) Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.
- (c) The possession or transportation by any merchant of unloaded firearms as merchandise.
- (d) Members of the Army, Navy or Marine Corps of the United States, or of the National Guard, when on duty.
- (e) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.
- (f) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.
- (g) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.
- (h) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

- (i) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.

*(Section 4.889 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.890 Weapons - Definitions for Sections 4.888 and 4.889.** As used in sections 4.888 and 4.889:

**"Firearm"** means a weapon, by whatever name known, which is designed to expel a projectile by the action of smokeless powder and which is readily capable of use as a weapon.

**"Handgun"** means any conventional pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder and which fires a single shot for each pressure on the trigger device.

**"Minor"** means a person under 18 years of age.

**"Public place"** means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

*(Section 4.890 added by Ordinance No. 19462, enacted April 13, 1987, and amended by Ordinance No. 19686, enacted May 14, 1990.)*

**4.891 Weapons - Seizure of Concealed Weapons; Destruction; Exception; Sale.**

- (1) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any machine gun, pistol, revolver or other firearm or weapon described in this chapter capable of being concealed upon the person, or any firearm used during the commission of any felony or misdemeanor is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are nuisances, and shall be surrendered to the police chief.
- (2) Upon the certificate of a judge of a court of record or of the district attorney that their preservation is necessary to the proper ends of justice, the police chief shall preserve any weapons seized or surrendered hereunder until the necessity therefore ceases to exist. Thereafter, unless the weapon has been stolen and its lawful owner has provided satisfactory identification of the weapon and proof of ownership so as to secure its return, the police chief shall dispose of the weapon in accordance with section 2.835(3) of this code.



Eugene Code

*(Section 4.891 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.895 Weapons - Bean Shooter, Toy Pistols, Etc.** No person shall use, cause to be used or encourage the use of a bean shooter, toy pistol or other contrivance or invention used in shooting or throwing beans, stones, pebbles, arrows, or other substances or things, in or on a street, park, lane, alley or other public place except on established ranges.

**4.900 Emergency Telephone System - Purpose.** The city council finds that there has been deliberate and knowing use of 9-1-1 telephone lines for the purpose of initiating a false report, placing a prank call or making a request for emergency services where there exists no true emergency, and that Public Safety Answering Points (PSAPs) within Lane County and the city experience repeated calls from citizens for emergency services when there exists no true emergency. Responding to such unlawful requests for services requires the use of personnel and equipment such that they are not available for response in the event of a true emergency. The purpose of sections 4.900 to 4.904 of this chapter is to reduce such abuse and deliberate misuse of the 9-1-1 emergency telephone system and emergency services provided by the public safety agencies of Lane County and the city to ensure the availability of 9-1-1 and other emergency telephone lines for the reporting of true emergencies in order that personnel and equipment may be available for use in true emergency situations, which will conserve energy and resources and reduce costs.

*(Section 4.900 added by Ordinance No. 19576, enacted September 12, 1988.)*

**4.902 Emergency Telephone System - Definitions.** For purposes of sections 4.900 to 4.904, the following terms are defined as follows:

**Automatic dialing and announcing device.** An electronically or mechanically-operated instrument which automatically dials telephone numbers it has been programmed to dial and which plays a prerecorded message when answered.

**Automatic protection device.** An electronically or mechanically operated instrument that automatically signals or sends by any means (including direct or indirect connection to regular telephone lines) pictures, sound, odor or a prerecorded message, either by voice or other alarm, from a protected premises upon receipt of a stimulus from a sensory detection apparatus. Automatic protection devices shall include any audible alarm or light signaling device attached to the interior or exterior of a protected premises.

**Emergency.** Any situation which involves an immediate threat to property or persons.

**Intentionally.** As defined in ORS 161.085.

**Knowingly.** As defined in ORS 161.085.

**9-1-1.** Three-digit telephone number assigned for use by the public in reporting an emergency situation or summoning emergency assistance from a public safety agency.

**Public safety agency.** Any sheriff, police, fire or emergency medical entity operated by the state, county or city within Lane County.

*(Section 4.902 added by Ordinance No. 19576, enacted September 12, 1988.)*

- 4.904**     **Emergency Telephone System - Improper Use.** A person commits the crime of improper use of emergency telephone system by:
- (a) Knowingly or intentionally dialing the 9-1-1 number for any purpose other than to report an event which the caller reasonably believes to be an emergency;
  - (b) Knowingly or intentionally programming and activating an automatic dialing and announcing device or an automatic protection device which results in the transmission of a prerecorded message to a public safety agency via 9-1-1;
  - (c) Knowingly allowing their telephone equipment to be used in violation of (a) or (b) above.

*(Section 4.904 added by Ordinance No. 19576, enacted September 12, 1988.)*

- 4.905**     **Initiating a False Report.** A person commits the crime of initiating a false report if the person knowingly initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.

*(Section 4.905 amended by Ordinance No. 19462, enacted April 13, 1987.)*

- 4.906**     **Giving False Information to Peace Officer or Enforcement Officer for a Citation.** A person commits the offense of giving false information to a peace officer or enforcement officer for a citation or for an arrest on a warrant if the person knowingly uses or gives a false or fictitious name, address or date of birth to any peace officer or enforcement officer for the purpose of:

- (a) The officer's issuing or serving the person a citation under authority of section 4.035 of this code, ORS 133.055 to 133.076, 133.110, 419C.085 or ORS chapter 153; or
- (b) The officer's arresting the person on a warrant.

"Enforcement officer," as used in this section, means a public safety officer of the University of Oregon authorized to issue citations for violations pursuant to section 4.035 of this code.

*(Section 4.906 added by Ordinance No. 19462, enacted April 13, 1987; amended by Ordinance No. 20218, enacted November 27, 2000, effective December 28, 2000; and amended by Ordinance No. 20293, enacted July 28, effective August 28, 2003; amended by Ordinance No. 20446, enacted December 14, 2009, effective January 1, 2010.)*

**4.907 Interfering With a Police Officer.** A person commits the crime of interfering with a police officer if the person, knowing that another person is a police officer, intentionally acts in a manner that prevents, or attempts to prevent, a police officer from performing the lawful duties of the police officer with regards to another person, or the person refuses to obey a lawful order by the police officer. This section does not apply in situations in which the person is engaging in activity that would constitute resisting arrest under section 4.910 of this code, or in which the person is engaging in passive resistance.

*(Section 4.907, formerly 4.906, added by Ordinance No. 19268, enacted July 23, 1984; renumbered by Ordinance No. 19462, enacted April 13, 1987; amended by Ordinance No. 19991, enacted November 14, 1994, effective December 14, 1994; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002.)*

**4.908 False Swearing.** A person commits the crime of false swearing if the person makes a false sworn statement, knowing it to be false.

*(Section 4.908 added by Ordinance No. 20160, enacted July 26, 1999, effective August 26, 1999.)*

**4.910 Resisting Arrest.**

- (1)** A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer in making an arrest.
- (2)** "Resists," as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer. The behavior does not have to result in actual physical injury to the arresting officer. Passive resistance does not constitute behavior intended to prevent being taken into custody.
- (3)** It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided the peace officer was acting under color of official authority.

*(Section 4.910 amended by Ordinance No. 16699, enacted January 22, 1973, and amended by Ordinance No. 19686, enacted May 14, 1990.)*

**4.911 Refusing to Assist a Peace Officer.** A person commits the offense of refusing to assist a peace officer if upon command by a person known by the person to be a peace officer the person unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.

*(Section 4.911 added by Ordinance No. 16699, enacted January 22, 1973, and amended by Ordinance No. 19462, enacted April 13, 1987.)*

**4.912 Hindering Prosecution.**

- (1) A person commits the offense of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a misdemeanor or a violation, or with the intent to assist a person who has committed such a crime or violation in profiting or benefitting from the commission of the crime or violation, the person:
  - (a) Harbors or conceals such person; or
  - (b) Warns such person of impending discovery or apprehension; or
  - (c) Provides or aids in providing such person with money, transportation, weapons, disguise or other means of avoiding discovery or apprehension; or
  - (d) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or
  - (e) Suppresses by any act of concealment, alteration or destruction physical evidence which might aid in the discovery or apprehension of such person; or
  - (f) Aids such person in securing or protecting the proceeds of the crime or violation.
- (2) It is no defense to a prosecution for hindering prosecution that the principal offender is not apprehended, prosecuted, convicted or punished.
- (3) In the event a person hinders the prosecution of a violation as set forth above, that person shall only be subject to a fine not to exceed \$250.

*(Section 4.912 added by Ordinance No. 16699, enacted January 22, 1973; amended by Ordinance No. 19462, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.915 Escape From Custody.**

- (1) A person commits the crime of escape if the person escapes from custody.
- (2) "Custody" means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, juvenile facility or a state hospital.
- (3) "Escape" means the unlawful departure, including failure to return to custody after temporary leave granted for a specific purpose or limited period, of a person from custody or a correctional facility but does not include failure to comply with provisions of a conditional release in ORS 135.245.
- (4) It is a defense to a prosecution under this section that the person escaping or attempting to escape was in custody pursuant to an illegal arrest.

*(Section 4.915 amended by Ordinance No. 19462, enacted April 13, 1987.)*

**4.916**     **Failure to Appear.** A person commits the crime of failure to appear if, having by court order been released from custody or a correctional facility upon a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a misdemeanor or violation, the person intentionally fails to appear as required.

*(Section 4.916 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.917**     **Failure to Appear on Citation.** If any person knowingly fails to appear before a court pursuant to a citation issued and served under authority of ORS 133.045 to 133.080, 133.110 and 156.050 and a complaint or information if filed, the person commits the crime of failure to appear on a citation.

*(Section 4.917 added by Ordinance No. 19462, enacted April 13, 1987.)*

**4.920**     **Criminal Impersonation.** A person commits the crime of criminal impersonation if with intent to obtain a benefit or to injure or defraud another the person falsely impersonates a public servant and does an act in such assumed character.

*(Section 4.920 amended by Ordinance No. 19462, enacted April 13, 1987.)*

**4.922**     **Failure to Report as a Sex Offender.** A person who is required to report as a sex offender and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person fails to:

- (1) Report following a change of residence, school enrollment or employment if the crime for which the person is required to report is a misdemeanor;
- (2) Make an annual report; or
- (3) Provide complete and accurate information, within the time and in the manner required by state statute and administrative rule.

*(Section 4.922 added by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005.)*

**4.925**     **Referred Selling Prohibited.**

- (1) No seller shall give or offer to give any discount, rebate or other thing of value to the buyer in consideration of the buyer furnishing to the seller the names of prospective purchasers or otherwise aiding the seller in making a sale to another person, if the giving of the discount, rebate or other thing of value is contingent upon the occurrence of any event subsequent to the time when the buyer enters into the contract or sale agreement with seller.
- (2) As used in this section, the following words and phrases, unless the context otherwise requires, shall mean:  
**Seller.** Any person, firm or corporation engaged in the sale of consumer goods or services.

**Buyer.** Any person to whom any seller sells or offers to sell consumer goods or services.

**Consumer goods or services.** Those foods or services which are used or bought for use primarily for personal, family or household purposes.

*(Section 4.925 added by Ordinance No. 16270, enacted July 12, 1971.)*

**4.930 Theft of Services.**

- (1) Theft of services in the third degree.** A person commits the crime of theft of services in the third degree if:

  - (a) With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services and the services in the aggregate are less than \$100; or
  - (b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled and the services in the aggregate are less than \$100.
- (2) Theft of services in the second degree.** A person commits the crime of theft of services in the second degree if:

  - (a) With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services and the services in the aggregate are \$100 or more but less than \$1,000; or
  - (b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled and the services in the aggregate are \$100 or more but less than \$1,000.
- (3)** As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. "Communication service" includes, but is not limited to, use of telephone, computer and cable television systems.
- (4)** Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately

upon the receiving of them is prima facie evidence that the services were obtained with intent to avoid payment therefor. Obtaining the use of any communication system the use of which is available only for compensation, including but not limited to telephone, computer and cable television systems, or obtaining the use of any services of a public utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with intent to avoid payment therefor.

*(Section 4.930 amended by Ordinance No. 19462, enacted April 13, 1987; Ordinance No. 19500, enacted September 28, 1987; and Ordinance No 20161, enacted July 26, 1999, effective August 26, 1999; amended by Ordinance No. 20446, enacted December 14, 2009, effective January 1, 2010.)*

- 4.934**     **Fireworks Restrictions.** In addition to restrictions on the sale, possession, use, detonation or explosion of fireworks under state law, it is unlawful to:
- (1) Use, light, detonate or display any consumer fireworks anywhere in the city at any time except on December 31, January 1, July 3 or July 4.
  - (2) Use, light, detonate or display any display fireworks anywhere in the city at any time except July 3 through July 5, unless specifically authorized by the city manager or designee.

For the purposes of this section, “consumer fireworks” and “display fireworks” have the meanings given in ORS 480.111.

*(Section 4.934 added by Ordinance No. 20531, enacted June 23, 2014, effective June 24, 2014; amended by Ordinance No. 20591, enacted May 14, 2018, effective June 16, 2018.)*

- 4.940**     **Fire Control.** A person commits the offense of refusing to assist in fire-fighting operations if:
- (a) Upon command by a person known by the person to be a firefighter the person unreasonably refuses or fails to assist in extinguishing a fire or protecting property threatened thereby; or
  - (b) Upon command by a person known by the person to be a firefighter or peace officer the person intentionally and unreasonably disobeys a lawful order relating to the conduct of the person in the vicinity of a fire.
  - (c) Subsections (a) and (b) of this section do not apply to a person working for a news organization if the person is reporting on the fire and the person does not unreasonably interfere with fire-fighting operations.

*(Section 4.940 amended by Ordinance No. 19462, enacted April 13, 1987; and Ordinance No. 20358, enacted January 23, 2006, effective January 25, 2006.)*

- 4.941**     **Interference with a Firefighter or Emergency Medical Technician.**
- (1) A person commits the crime of interfering with a firefighter or emergency medical technician if the person, knowing that another person is a firefighter or emergency medical technician, intentionally acts in a manner that prevents, or attempts to prevent, a firefighter or emergency medical technician from performing the lawful duties of the firefighter or emergency medical technician.

Eugene Code

- (2) As used in this section, “emergency medical technician” means a person who has received formal training in prehospital and emergency care, and is state certified to attend any ill, injured or disabled person. Police officers, firefighters, funeral home employees and other personnel serving in a dual capacity one of which meets the definition of “emergency medical technician” are “emergency medical technicians” within the meaning of this section.

*(Section 4.941 added by Ordinance No. 20308, enacted and effective February 9, 2004.)*

**4.942 Obstructing Governmental or Judicial Administration.**

- (1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.
- (2) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.

*(Section 4.942 amended by Ordinance No. 19462, enacted April 13, 1987.)*

- 4.943 Tampering with Physical Evidence.** A person commits the crime of tampering with physical evidence if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, the person:
- (a) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or
- (b) Knowingly makes, produces or offers any false physical evidence; or
- (c) Prevents the production of physical evidence by an act of force, intimidation or deception against any person.

*(Section 4.943 added by Ordinance No. 19462, enacted April 13, 1987.)*

- 4.945 Trains - Jumping On or Off.** No person shall climb, jump or get on or off, or attempt to climb, jump or get on or off, a railroad coach, car or train while it is in motion or switching. Nothing in this section shall apply to employees or passengers getting on or off trains.

- 4.950 Awnings - Throwing Lighted Matter On.** No person shall throw a lighted match, lighted cigar or lighted cigarette on an awning.

- 4.960 Child Neglect.** A person having custody or control of a child under 10 years of age commits the crime of child neglect if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child.

*(Section 4.960 amended by Ordinance No. 19462, enacted April 13, 1987.)*

- 4.965 Interfering With Water Mains or Pipes.** No person shall attach to or detach from any water main or service pipe or other connection through which water



## Eugene Code

is supplied by the city to water consumers of the city or interfere in any manner with such pipes or connections, without having first obtained the written consent of the general manager of the Eugene Water & Electric Board or the manager's designate.

*(Section 4.965 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.966 Opening Stops or Faucets.** No person shall open a stop or faucet or leave a stop or faucet open, so as to permit the water to waste.

**4.967 Covering Up Stopcock, Gate or Meter.** No person shall cover up a stopcock, gate or meter attached to the city water system, with lumber, earth, cement, concrete or other substance.

**4.975 Water From Air Conditioners Draining on Street, Etc.** No person shall cause or permit water from air-conditioning devices and other uses to be drained or permitted to run or drain from premises under the person's control onto the surface of any sidewalk, street or alley.

*(Section 4.975 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

**4.977 Interfering with Public Transportation.**

**(1)** As used in this section, the following words and phrases mean:

**Enter or remain unlawfully.** Has the meaning given that term in section 4.805 of this code.

**Public transit station.** Includes all facilities, structures, lands and rights of way that are owned, leased, held or used for the purposes of providing public transportation services.

**Public transit vehicle.** A vehicle that is used for public transportation or operated by or under contract to any public body in order to provide public transportation.

**Public transportation.** Transportation provided by a city, county, special district or any other political subdivision or municipal or public corporation.

**(2)** A person commits the crime of interfering with public transportation if the person:

(a) Intentionally or knowingly enters or remains unlawfully in or on a public transit vehicle or public transit station;

(b) Intentionally or knowingly interferes with the provision or use of public transportation services by, among other things, interfering with the movement of, or access to, public transit vehicles;

(c) While in or on a public transit vehicle or public transit station, engages in disorderly conduct as defined in section 4.725 of this code; or

## Eugene Code

- (d) Subjects a public transportation passenger, employee, agent, security officer or transit police officer to offensive physical contact.

*(Section 4.977 added by Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002.)*

### **4.979 Motor Assisted Scooter Sales.**

- (1) It is unlawful for a merchant to sell a motor assisted scooter without making the following disclosures:
  - (a) Motor assisted scooters cannot be operated at a speed greater than 15 mph.
  - (b) You must be 16 years of age to operate a motor assisted scooter.
  - (c) Anyone operating a motor assisted scooter must wear protective headgear.
  - (d) Motor assisted scooters are prohibited on sidewalks.
  - (e) Motor assisted scooters can only be operated on streets with speed limits of 25 mph or less or in a bicycle lane.
  - (f) Motor assisted scooters are prohibited on all city owned off-street bicycle and pedestrian paths or trails.
- (2) A merchant who sells motor assisted scooters must post, in a prominent place at each location where motor assisted scooters are on display, a notice setting forth the above-listed restrictions on motor assisted scooter use and must provide a copy of such notice to each purchaser of a motor assisted scooter, either before or in connection with the purchase.
- (3) "Motor assisted scooter" means a vehicle that is designed to be operated on the ground with not more than three wheels; has handlebars and a foot support or a seat for the operator's use; can be propelled by motor or human propulsion; is equipped with a power source that is incapable of propelling the vehicle at a speed of greater than 24 miles per hour on level ground; and has a combustion engine power source with a piston or rotor displacement of 35 cubic centimeters or less regardless of the number of chambers in the power source or an electric power source that has a power output of not more than 1,000 watts.

*(Section 4.979 added by Ordinance No. 20340, enacted March 4, 2005, effective April 3, 2005.)*

## **TOWING**

- 4.980 Towing - Definitions.** As used in sections 4.982 to 4.988, the following words and phrases mean:

**Connected, connection.** A motor vehicle is connected or a connection is accomplished when two wheels (one wheel if a motorcycle or motorbike) of the vehicle are elevated off the ground and the vehicle is safely attached to a vehicle used in the towing business for transport.

**Parking facility.** Any parking facility as defined in section 5.010 of this code.

**Parking facility owner.** The owner, operator or person in possession of a parking facility.

**Towing business.** Includes engaging in any of the following acts:

- (a) The towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovering activity; or
- (b) The towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned, or replacement vehicles; but does not include providing assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

**Vehicle operator.** Any person lawfully in possession of a motor vehicle which may include the operator, lessee, owner or holder of a security interest.

*(Section 4.980 added by Ordinance 20058, enacted September 9, 1996, effective October 9, 1996.)*

**4.982 Towing - Regulations.**

- (1) A parking facility owner shall not:
  - (a) Authorize the removal of a vehicle without first giving notice of the intended removal to the Eugene Police Department.
  - (b) Receive direct or indirect compensation from a person engaged in the towing business based on a per vehicle towed from the parking facility without the vehicle operator's consent or on a percentage of the fees collected upon redemption or sale of the vehicle towed without the operator's consent.
  - (c) Upon reasonable demand of the operator of a vehicle towed from a parking facility, fail to disclose:
    1. The specific written or verbal authorization to a towing business which allowed the vehicle to be removed from the parking facility, the time the authorization was given, and to whom it was given; and
    2. The name, address and telephone number of the place where the vehicle is stored.
  - (d) Violate any applicable federal, state, or local law or regulation.
- (2) Any person engaged in the towing business or the vehicle storage business shall not:

## Eugene Code

- (a) Directly or indirectly compensate a parking facility owner, for the authority to tow vehicles from the parking facility without the vehicle operator's consent based on a per vehicle towed or on a percentage of the fees collected upon redemption or sale of the vehicle.
- (b) Charge for services not actually rendered.
- (c) Charge fees for services rendered other than those displayed in compliance with section 4.986 of this code.
- (d) Before connection, and after a vehicle operator has requested the release of a vehicle for its immediate removal, charge or attempt to charge a vehicle operator for services rendered. This provision does not apply to services performed at the request of a vehicle operator or police officer.
- (e) Continue to connect a motor vehicle after its operator communicates a willingness to immediately remove the vehicle from the parking facility.
- (f) Tow a vehicle from a parking facility when the vehicle operator is present and has communicated a willingness to pay just and reasonable fees for the immediate release of the vehicle at the location.
- (g) Remove vehicles from a parking facility in less than fifteen minutes after the vehicle operator has advised the tow vehicle operator that the vehicle operator is going to secure cash to pay the charges to redeem the vehicle. The tow vehicle operator may remove a vehicle from a parking facility in less than fifteen minutes if remaining in the parking facility will impede others in the authorized use of the parking facility and
  1. The vehicle operator agrees to an alternate waiting location, or
  2. The tow vehicle operator has told the vehicle operator where the tow vehicle operator will wait reasonably proximate and convenient to the parking facility.
- (h) Refuse prompt access to impounded vehicles to remove pets or prescription medicines or to remove money or identification for the purpose of redeeming the vehicle.
- (i) Engage in conduct which prevents or discourages a vehicle operator from being accompanied by a person or the vehicle operator's choice when seeking redemption of the vehicle.
- (j) Prevent the vehicle operator from inspecting the vehicle and its contents before redeeming the vehicle.
- (k) Charge fees that are not just and reasonable for the towing, care or storage of vehicles.
- (l) Charge fees for services which increase based upon the behavior of the person redeeming a vehicle.

## Eugene Code

- (m) Require the vehicle operator, prior to inspection of the vehicle, to sign a release or limitation of liability for the benefit of the person engaged in the towing or vehicle storage business.
- (n) Refuse or fail to make change when cash in reasonable denominations is tendered after demanding payment in cash.
- (o) Fail to provide to the person redeeming a vehicle an itemized bill for services according to the published rate schedule required by section 4.986 of this code.
- (p) Upon request fail to disclose within two business days:
  - 1. The name and mailing address of the parking facility owner that authorized the removal of the vehicle,
  - 2. The date and time of each notice required by ORS 98.812, sections 4.982 to 4.988 of this code, or any succeeding statute or ordinance.
- (q) Violate any applicable federal, state, or local law or regulation.

*(Section 4.982, formerly Section 3.882, added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; renumbered and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)*

### **4.984 Towing - Removing Vehicle From Parking Facility.**

- (1)** Except as provided in subsection (2) of this section, it shall be unlawful for any person to remove or direct the removal of a motor vehicle from a parking facility without the vehicle operator's permission unless the parking facility has permanently erected or affixed signs as provided in section 5.540 of this code.
- (2)** It is not a violation of this section to remove or direct the removal of a motor vehicle when:
  - (a) It is ordered to be removed by a police officer or fire officer performing the officer's official duty;
  - (b) It violates subsections 5.240(1) or 5.240(2) of this code;
  - (c) It is parked in an area clearly designated "no parking"; or
  - (d) It is abandoned.

*(Section 4.984, formerly Section 3.884, added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; renumbered and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998).*

### **4.986 Towing - Posting Rate Schedules.**

- (1)** Persons engaged in the vehicle storage or towing business shall display at their place of business a sign containing the schedule of fees for all towing, recovery, care, or storage services. The letters and numbers on the sign shall be machine or block lettered and readable from the areas of the business open to the public.

## Eugene Code

- (2) When towing vehicles from parking facilities there shall be displayed on the tow vehicle in a manner easily read from outside the tow vehicle, the schedule of fees for towing and disconnecting services. The sign shall also declare no fee shall be charged prior to connection. The letters and numerals on the sign shall be machine or block lettered and readable from a distance of 20 feet.
- (3) Persons engaged in the vehicle storage or towing business shall deliver to the city manager a schedule reflecting the fees charged for all towing, recovery, care or storage services, shall provide to the city manager 15 days advance written notice of any proposed changes to those fees, and shall not charge any fee other than as reflected on the schedule on file with the city manager.

*(Section 4.986, formerly Section 3.886, added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; renumbered and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)*

### **4.988 Towing - Display of Rates.**

- (1) Persons engaged in the business of operating tow cars for hire shall display inside their place of business a sign containing the schedule of rates for all tow car services and vehicle storage. The letters and numerals on the sign shall be machine or block lettered and readable from the areas of the business open to the public.
- (2) Tow cars when used to remove motor vehicles from parking facilities as defined in section 5.540 of this code shall have displayed on the tow car in a manner easily read from outside the tow car, the schedule of rates for impounding and disconnecting a motor vehicle. The sign shall also declare no fee shall be charged if the operator of the motor vehicle returns to the motor vehicle before it is connected to the tow car. The letters and numerals on the sign shall be machine or block lettered and readable from a distance of 20 feet.

*(Section 4.988, formerly Section 3.888 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; renumbered and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996.)*

## **USED MERCHANDISE DEALER**

### **4.989 Used Merchandise Dealer - Requirements.**

- (1) As used in this section, the following words and phrases mean:
  - (a) Approved identification. A currently valid identification issued by a government agency that includes a physical description and photograph of the person and bears the signature of the person.
  - (b) Chief of police. The person authorized by the city manager to carry out the duties of the chief of the Eugene Police Department, or his or her designee.
  - (c) Peace officer. As defined in ORS 133.005.

## Eugene Code

- (d) Pawnbroker. A person, partnership, corporation or other business association licensed as a pawnbroker under ORS chapter 726.
- (e) Pledge. Any article deposited with a pawnbroker in the course of the business of the pawnbroker as defined in paragraph (d) of this subsection.
- (f) Precious metal. Gold in eight karat or greater purity, silver, platinum or palladium. Precious metal does not include unrefined metal ore, an electronic product or any part of a mechanical system on a motor vehicle that contains precious metal as a result of the vehicle manufacturing process.
- (g) Purchase. The buying, exchanging, transferring, collecting, consigning or otherwise acquiring of regulated property from another person not a used merchandise dealer, for resale, exchange or transfer by the purchaser. It includes taking possession of regulated property with an expressed or implied agreement or understanding to return regulated property at a subsequent time at a stipulated price or for the payment of a storage or handling fee.
- (h) Regulated property.
  - 1. Except for property excluded in paragraph (h)2. below, any used or secondhand personal property, including, but not limited to, precious metals and gems; watches, jewelry, and household items containing precious metals or precious gems; audio and video equipment and media; photographic and optical equipment; electrical office equipment; yard and garden tools; power equipment and tools; hand tools; telephones or telephone equipment; musical instruments; firearms; and sporting equipment.
  - 2. The term “regulated property” does not include any of the following property: vehicles required to be registered with the state Motor Vehicles Division; boats required to be certified by the state Marine Board; books; collectable trading cards (e.g., baseball trading cards or movie trading cards); glassware; furniture; clothes; refrigerators, stoves, washers, dryers, window air conditioner units, and other similar major household appliances; small kitchen appliances; or property that is purchased for investment purposes, limited to the following:
    - a. Gold bullion bars or rounds (0.995 fine or better);
    - b. Silver bullion bars or rounds (0.995 fine or better);
    - c. Palladium and platinum bars or rounds (0.995 fine or better);
    - d. All tokens, coins, or money, whether commemorative or an actual medium of exchange, adopted by a domestic or foreign government as part of its currency;

## Eugene Code

- e. Postage stamps, stamp collections and philatelic items;  
or
  - f. Privately manufactured coins.
- (i) Used merchandise dealer.
- 1. A person who engages in, conducts, manages, or carries on any business that, as part or all of its business:
    - a. Purchases regulated property; or
    - b. Lends money on security of regulated property.
  - 2. A used merchandise dealer does not include:
    - a. A person who engages in, conducts, manages, or carries on any business that does not buy regulated property outright, but occasionally accepts in trade regulated property as part or full payment for new articles, where such business is incidental to the primary business of the sale of new articles;
    - b. A person who engages in, conducts, manages, or carries on any business that deals exclusively in the purchase and sale of used whole automobiles, books, trading cards and sports memorabilia, clothing, furniture, major household electric or gas appliances, or farm implements and machinery; or
    - c. A person who engages in, conducts, manages, or carries on any nonprofit corporation or association that purchases, sells or otherwise exchanges only donated articles.
- (2)** No person with a felony conviction for Burglary, Theft, Manufacture of a Controlled Substance or Schedule I or II Drug Possession may be permitted to own or operate a used merchandise business.
- (3)** Recording requirements.
- (a) At the time of purchase, a used merchandise dealer shall accurately record: the description of the regulated property purchase; the address, date of birth and current telephone number of the person from whom the regulated property was purchased; and the person's approved identification.
  - (b) The used merchandise dealer shall record an identifying description and take a discernible, clear photograph of all jewelry, gems and precious metal items. Pawnbrokers accepting a pledge are not required to photograph the pledged item.
  - (c) Used merchandise dealers shall record purchases of regulated property via an automated electronic reporting system approved by the city.
  - (d) All records of purchases shall be kept in an orderly manner on the used merchandise dealer's business premises and open for reasonable inspection by peace officers upon their demand. Each used merchandise dealer shall keep a paper record of each



## Eugene Code

purchase bearing the signature of the customer for a period of one year.

**(4)** Reporting requirements.

- (a) Within 12 hours of a purchase, a used merchandise dealer shall input and transmit the recorded information required under subsection (3) using the automated electronic reporting system approved by the city.
- (b) Only reports containing complete information shall be deemed to comply with this section.
- (c) In the event that the automated electronic reporting system becomes inoperable, a used merchandise dealer's computer system becomes inoperable, or other event that makes reporting within the time allowed by subsection (a) of this subsection impossible, the used merchandise dealer shall immediately report the occurrence of such event to the chief of police. The chief of police may suspend the reporting requirements of subsection (a) of this subsection for a reasonable period until electronic reporting can resume. Once the chief of police determines that reporting can resume, used merchandise dealers must, within 12 hours, input and transmit the information required under subsection (3) for all purchases made during any period reporting was suspended by the chief of police using the approved automated electronic reporting system.

**(5)** Reporting fees. The city manager shall establish fees for the use of an automated electronic reporting system in accordance with the procedures of section 2.020 of this code. Such fees shall reflect the costs associated with providing electronic automated reporting system services to used merchandise dealers. Used merchandise dealers shall be charged the fees on an annual basis, and the fees shall become due 45 days after the date billed.

**(6)** Limitations on the purchase of regulated property.

- (a) A used merchandise dealer shall not:
  - 1. Purchase regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks, which are or have been altered, obliterated, removed, or otherwise rendered illegible;
  - 2. Purchase regulated property from a person under the age of 18 years;
  - 3. Purchase regulated property from a person who is obviously under the influence of drugs or intoxicating liquor;
  - 4. Knowingly purchase regulated property from a person who is not the owner of the regulated property or parent or guardian of the owner of the regulated property; or
  - 5. Remove gemstones from jewelry or alter jewelry at the time of purchase or thereafter, or ask the seller to remove gemstones or alter jewelry at time of purchase.

## Eugene Code

- (b) A used merchandise dealer shall comply with all applicable federal, state, and local laws and regulations.
- (7) Limitations on the sale of regulated property.**
- (a) Regulated property purchased by any used merchandise dealer shall not be sold for a period of 14 full days after the date the report required in subsection (4) is received by the city. The used merchandise dealer shall maintain the purchased property in substantially the same form as purchased and shall not commingle the property in a manner that precludes identification during this 14-day holding period. The purchased property shall be located on the business premises during normal business hours during this holding period so that it can be inspected as provided in subsection (8). The 14-day holding period does not apply to a pledge held by a pawnbroker.
  - (b) Upon reasonable belief that the purchased property is the subject of theft, the chief of police may provide notice to any used merchandise dealer not to dispose of any specifically described property purchased. The used merchandise dealer shall retain the property in substantially the same form as purchased and shall not remove gemstones from, or make other alterations to, pieces of jewelry. Upon receipt of notice pursuant to this subsection, the used merchandise dealer shall not sell, exchange, dismantle or otherwise dispose of the property for a period of time, as determined and stated in the notice by the chief of police, not to exceed 180 days from the date of purchase.
- (8) Inspection of used merchandise dealers and regulated property.** Upon presentation of official identification, any peace officer may enter onto the business premises of any used merchandise dealer to ensure compliance with the provisions of subsections (1) - (7). The inspection shall be for the limited purpose of inspecting any regulated property purchased by the dealer, held by the dealer pursuant to subsection (7), or the records incident thereto. Any inspection pursuant to this subsection shall only be authorized to occur during normal business hours.
- (9) Administrative rules.** The city manager or the manager's designee is authorized to promulgate rules necessary to carry out the provisions of this section following the procedures of section 2.019 of this code.
- (10) Enforcement.**
- (a) Any peace officer may enforce the provisions of this section 4.989.
  - (b) If it appears to the city manager that a used merchandise dealer has repeatedly and substantially violated this section or other laws applicable to used merchandise dealers, the city manager may initiate judicial proceedings for injunctive relief to prohibit the person from acting as a used merchandise dealer and to prohibit

## Eugene Code

the purchase or sale of regulated property at the location where the violations occurred.

- (11) Penalties.** Violation of any of the requirements in subsections (1) – (8) of this section or the rules adopted pursuant to subsection (9) of this section is subject to punishment as provided in subsection 4.990(10). Each act that violates section 4.989 or any of the rules adopted pursuant to subsection (9) of this section is a separate offense.

*(Section 4.989, formerly Section 3.890 added by Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; amended by Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; renumbered and amended by Ordinance No. 20058, enacted September 9, 1996, effective October 9, 1996; amended by Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003; Ordinance No. 20361, enacted February 13, 2006, effective March 17, 2006; and Ordinance No. 20500, enacted November 26, 2012, effective December 28, 2012; administratively corrected February 5, 2013.)*

## PENALTIES

### **4.990 Penalties - Specific.**

- (1)** Violation of the following sections is punishable by fine or confinement in jail, or both, up to the amounts indicated opposite each. In addition, the court may order any treatment, related to the violation, deemed necessary for rehabilitation of the offender and the safety of the community.

<u>Section</u>	<u>Penalty</u>
4.045 to 4.075	\$ 500 fine (See section 4.996 for civil administrative penalty for violation of section 4.050.)
4.080	500 fine or 30 days in jail, or both
4.081	1,500 fine or 90 days in jail, or both
4.110(1) and (2)	5,000 fine or 1 year in jail, or both
4.110(3)	1,000 fine or community service, or both
4.115(1)	250 fine
4.115(2)	720 fine
4.125	250 fine
4.130	500 fine
4.140	500 fine
4.145	500 fine or 30 days in jail, or both
4.155	500 fine
4.160	500 fine
4.165	500 fine
4.175	500 fine
4.180	500 fine
4.185	500 fine
4.190(4)(b)	See 4.996(3)

Eugene Code

4.191	See subsection (9) of this section
4.195	500 fine
4.241	1000 fine
4.242	1000 fine
4.265	500 fine
4.300	500 fine
4.310	500 fine
4.330 to 4.490	Except as specifically listed herein, see subsection (2) of this section
4.335(2)	500 fine or 30 days in jail, or both
4.340(3)	500 fine or 30 days in jail, or both
4.403	180 fine for the first offense; 360 fine for subsequent offenses
4.500(1)	500 fine or 30 days in jail, or both
4.500(2)	2,500 fine or 6 months in jail, or both
4.672(1)	Fine not to exceed \$1,000, or community service as determined by the court (which may include restorative justice), or both.
4.705	1,000 fine or 100 days in jail, or both
4.707	1,000 fine or 100 days in jail, or both
4.710	1,000 fine or 100 days in jail, or both
4.725	1,000 fine or 100 days in jail, or both
4.726	1,000 fine or 100 days in jail, or both
4.728	2,500 fine or 100 days in jail, or both
4.729	2,500 fine or 1 year in jail, or both
4.730	2,500 fine or 100 days in jail, or both
4.731	2,500 fine or 1 year in jail, or both
4.735	250 fine
4.745	1,000 fine or 100 days in jail, or both, for a first offense; 5,000 fine or one year in jail, or both for a second or subsequent offense
4.760	500 fine
4.770	500 fine
4.780	500 fine or 30 days in jail, or both
4.782	2,500 fine or 100 days in jail, or both
4.795	500 fine
4.806	500 fine or 30 days in jail, or both
4.807	500 fine or 30 days in jail, or both
4.808	5000 fine or 1 year in jail, or both
4.809	2500 fine or 100 days in jail, or both
4.810	500 fine or 30 days in jail, or both
4.812(1)	500 fine or 100 days in jail, or both
4.812(2), (3) and (4)	5,000 fine or one year in jail, or both
4.815	See subsections (7) and (8) of this section
4.816	See subsection (6) of this section
4.822(1)	500 fine or 30 days in jail, or both

Eugene Code

4.822(2)	1,000 fine or 6 months in jail, or both
4.830	250 fine
4.832	200 fine
4.833	200 fine
4.835 to 4.850	500 fine
4.855	500 fine
4.860	500 fine
4.872	See subsections (3) and (4) of this section
4.880	500 fine or 30 days in jail, or both
4.882	1,000 fine or 6 months in jail, or both
4.885	500 fine
4.886	See subsection (5) of this section
4.887	1,000 fine or 100 days in jail, or both
4.888	2,500 fine or 100 days in jail, or both
4.895	500 fine
4.904	500 fine or 30 days in jail, or both
4.905	500 fine or 30 days in jail, or both
4.906	2,500 fine or 100 days in jail, or both
4.907	5,000 fine or one year in jail, or both
4.908	2,500 fine or 100 days in jail, or both
4.910	5,000 fine or one year in jail, or both
4.911	250 fine
4.912	250 fine (if the prosecution hindered is a violation)
4.920	2,500 fine or 100 days in jail, or both
4.922	1,000 fine or 100 days in jail, or both
4.925	500 fine
4.930(1)	500 fine or 30 days in jail, or both
4.930(2)	1,000 fine or 6 months in jail, or both
4.934	500 fine
4.940	250 fine
4.941	500 fine or 30 days in jail, or both
4.942	2,500 fine or 100 days in jail, or both
4.943	2,500 fine or 100 days in jail, or both
4.945	500 fine
4.950	500 fine
4.965 to 4.975	500 fine
4.977	5,000 fine or one year in jail, or both
4.979	500 fine
4.980 to 4.988	500 fine or imposition of administrative civil penalty pursuant to section 2.018
4.989	See subsection (10) of this section
<b>(2)</b>	Except when a different penalty is expressly provided in subsection (1) of this section, violation of sections 4.330 to 4.490 is punishable as provided in this subsection:

## Eugene Code

- (a) One half of the fine imposed may be waived if the violator attends a violators school conducted by the animal regulation authority.
  - (b) In addition to the fines imposed by this subsection, the court may order any Level 3 or Level 4 potentially dangerous dog to be neutered and any Level 4 or Level 5 potentially dangerous dog euthanized and may suspend, for a period of time, any Level 5 potentially dangerous dog owner's right to own a dog within the city including dogs currently owned.
  - (c) For section 4.370(3), 4.405, 4.460, 4.465, 4.470 or 4.490 by a fine not more than \$150.
  - (d) For section 4.335(1), 4.340(2), 4.375, 4.380, 4.390(8), 4.390(9), 4.400(1), 4.410, 4.445, 4.450, 4.455 or 4.475 by a fine of not more than \$500
  - (e) The violation of any other section not specified in this section is punishable by a fine not more than \$250.
- (3)** Violation of section 4.872 and any regulations adopted under that section, except willful violations as defined in subsection (4), is punishable by fine not to exceed \$500.
- (4)** The willful violation of section 4.872 and any regulations adopted under that section or the willful violation of any other section of this chapter punishable by fine only while in the downtown activity zone as defined in section 4.871 is punishable by a fine not to exceed \$1,000 or confinement in jail not to exceed one year, or both fine and imprisonment. A willful violation of section 4.872 or the regulations adopted thereto shall mean engaging in the same prohibited conduct after either receipt of a written notice of the violation as described in those regulations or receipt of a misdemeanor citation from a police officer.
- (5)** Violation of section 4.886 is punishable by a fine of not less than \$10 nor more than \$500, or confinement in jail for not less than ten days nor more than six months, or both fine and imprisonment.
- (6)** A person who violates section 4.816 or permits a violation to occur on the person's property shall be subject to imposition of a civil administrative penalty in an amount not to exceed \$100 for each day the violation continues.
- (7)** Except as provided in subsection (8) of this section, a violation of section 4.815 is punishable by a fine not to exceed \$200.
- (8)** A willful violation of section 4.815, where the violation consists of camping in a vehicle parked overnight on a public street, is punishable by a fine not to exceed \$500 or confinement in jail for a period not to exceed ten days, or both. As used in this subsection, "willful violation" means a violation that occurs after the person has received, within 30 days preceding the current violation, a citation for violating section 4.815 or a written warning from a peace officer or other person authorized by the city manager to issue such warnings, that the person was violating section 4.815. In addition to the foregoing penalties, a

## Eugene Code

vehicle used in a willful violation of section 4.815 may be immobilized or impounded pursuant to sections 5.693 through 5.705 of this code.

- (9)** A first violation of section 4.191 is punishable by a fine not to exceed \$350 or confinement in jail not to exceed 100 days, or both such fine and imprisonment. A second and subsequent violations of section 4.191 is punishable by a fine not to exceed \$2,500 or confinement in jail not to exceed 100 days, or both such fine and imprisonment. In addition to, or in lieu of such fine and/or imprisonment, the court may order the person to perform community service as determined by the court.
- (10)** Violation of section 4.989 is punishable as follows:
- (a) A person who violates section 4.989 may be punished by a fine of not more than \$500.
  - (b) A person who violates section 4.989 after having been convicted at three different times for violating section 4.989 may be punished by a fine of not more than \$1500 for each new violation.
  - (c) A person who violates section 4.989 after having been convicted at six different times for violating section 4.989 may be punished by a fine of not more than \$3000 for each new violation.
  - (d) Each violation of section 4.989 or any of the rules adopted thereunder is a separate offense.
  - (e) For purposes of this section and section 4.989, "a violation of sections 4.989" includes a violation of the rules adopted under that section.
  - (f) For purposes of this section, "person" includes individuals, corporations, partnerships and any form of business association.

*(Section 4.990 amended by Ordinance No. 16270, enacted July 12, 1971; Ordinance No. 16537, enacted June 26, 1972; Ordinance No. 16614, enacted September 11, 1972; Ordinance No. 17472, enacted November 12, 1975; Ordinance No. 18049, enacted September 12, 1977; Ordinance No. 18267, enacted September 20, 1978; Ordinance No. 18730, enacted December 10, 1980; Ordinance No. 18771, enacted April 8, 1981; Ordinance No. 18826, enacted July 13, 1981; Ordinance No. 18848, enacted July 29, 1981; Ordinance No. 19092, enacted February 9, 1983; Ordinance No. 19243, enacted April 23, 1984; Ordinance No. 19268, enacted July 23, 1984; Ordinance No. 19274, enacted August 13, 1984; Ordinance No. 19315, enacted March 11, 1985; Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19339, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19354, enacted September 18, 1985; Ordinance No. 19393, enacted July 28, 1986; Ordinance No. 19461, enacted April 13, 1987; Ordinance No. 19462, enacted April 13, 1987; Ordinance No. 19500, enacted September 28, 1987; Ordinance No. 19505, enacted October 12, 1987; Ordinance No. 19576, enacted September 12, 1988; Ordinance No. 19587, enacted December 12, 1988; Ordinance No. 19686, enacted May 14, 1990; Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993; Ordinance No. 19970, enacted July 11, 1994; Ordinance No. 20043, enacted May 13, 1996, effective July 1, 1996; Ordinance No. 20130, enacted August 5, 1998; Ordinance No. 20160, enacted July 26, 1999, effective August 26, 1999; Ordinance No. 20196, enacted May 8, 2000, effective June 8, 2000; Ordinance No. 20207, enacted August 7, 2000, effective September 6, 2000; Ordinance No. 20221, enacted January 22, 2001, effective February 21, 2001; Ordinance No. 20233, enacted August 6, 2001, effective September 5, 2001; Ordinance No. 20245, enacted January 14, 2002, effective February 15, 2002;*

## Eugene Code

*Ordinance No. 20256, enacted June 12, 2002, effective July 12, 2002; Ordinance No. 20279, enacted February 10, 2003, effective March 12, 2003; Ordinance No. 20303, enacted November 24, 2003, effective December 24, 2003; Ordinance No. 20308, enacted and effective February 9, 2004; Ordinance No. 20340, enacted March 4, 2005, effective April 3, 2005; Ordinance No. 20342, enacted and effective March 9, 2005; administratively corrected June 28, 2005; amended by Ordinance No. 20348, enacted July 25, 2005, effective August 25, 2005; amended by Ordinance No. 20361, enacted February 13, 2006, effective March 17, 2006; Ordinance No. 20375, enacted January 8, 2007, effective February 9, 2007; Ordinance No. 20392, enacted September 26, 2007, effective October 26, 2007; Ordinance No. 20394, enacted October 9, 2007, effective November 8, 2007; Ordinance No. 20404, enacted and effective February 26, 2008; clerically corrected May 1, 2008; amended by Ordinance No. 20416, enacted July 28, 2008, effective August 30, 2008; and by Ordinance No. 20419, enacted August 11, 2008, effective September 13, 2008, and unless extended by the City Council, amendment adopted by ordinance 20419 to sunset and be repealed August 11, 2010; amended by Ordinance No. 20446, enacted December 14, 2009, effective January 1, 2010; sunset date of amendment adopted by Ordinance No. 20419 extended to January 8, 2011, by Ordinance No. 20462 enacted August 9, 2010, effective August 11, 2010; sunset date of amendment adopted by Ordinance No. 20419 extended to April 30, 2012, by Ordinance No. 20467, enacted December 8, 2010, effective January 8, 2011; sunset date of amendment adopted by Ordinance No. 20419 extended to November 30, 2012, by Ordinance No. 20488, enacted February 27, 2012, effective March 31, 2012; sunset date of amendment adopted by Ordinance No. 20419 extended to November 30, 2013, by Ordinance No. 20497, enacted October 8, 2012, effective November 30, 2012; amended by Ordinance No. 20500, enacted November 26, 2012, effective December 28, 2012; Ordinance No. 20504, enacted January 28, 2013, effective March 2, 2013; Ordinance No. 20531, enacted June 23, 2014, effective June 24, 2014; and Ordinance No. 20560, enacted January 25, 2016, effective January 27, 2016.)*

**4.995**     **Penalties - General.** Violation of any other section in this chapter is punishable by fine not to exceed \$500, or confinement in jail not to exceed 100 days, or both fine and imprisonment, provided, however, if there is a violation of any such provision or any provision mentioned in section 4.990 identical to a state statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the state law.

*(Section 4.995 amended by Ordinance No. 19462, enacted April 13, 1987.)*

**4.996**     **Administrative Civil Penalty.**

- (1)** In addition to, and not in lieu of any other enforcement mechanism authorized by this code the city manager or designee may impose upon the person responsible for violation of subsection (1) of section 4.050 of this code, an administrative civil penalty as provided by section 2.018 of this code. For purposes of this subsection, there is a rebuttable presumption that a person responsible includes those persons referenced in subsections 4.050(4)(a)-(f).
- (2)** Notwithstanding the appeal procedures of sections 2.018 and 2.021 of this code, an individual presumed responsible under subsection 4.050(4) for payment of an administrative civil penalty may appeal the imposition of the administrative civil penalty within 10 days of the date



## Eugene Code

of the civil penalty is imposed. The individual presumed responsible shall submit with the notice of appeal to the city manager or designee a written declaration made under penalty of perjury or a sworn affidavit that the person did not cause, authorize, or permit the posting of material in violation of subsection 4.050(1). A notice of appeal that does not contain such a declaration shall be dismissed.

- (3)** Upon a determination by the city manager, or the manager's designee, that a responsible person failed to request the exemption allowed under section 4.190(4)(b) and allowed drinking, or failed to post the signs or distribute the handbills containing the information as required by section 4.190(4)(b), the city manager may impose upon the violator an administrative civil penalty. A first violation is subject to a fine of \$200. Second and subsequent violations are subject to fines of \$500. Upon the imposition of a third civil penalty to the same responsible person within a period of 12 months from the first penalty imposed, in addition to the civil penalty, the exemption provided under section 4.190(4)(b) shall be revoked for a period of one year. Upon the expiration of the one year period, the responsible person may again make a request for the exemption as provided in section 4.190(4)(b).
- (4)** In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this section constitutes a violation of this code.
- (5)** Second and subsequent violations of subsection (1) of section 4.672 of this code within a twelve-month period are subject to the imposition of response costs as defined in section 4.670 of this code.
- (6)** Upon fourth and any subsequent violation of subsection (1) of section 4.672 of this code within a twelve-month period, at a property as defined in section 4.670 of this code, the owner of the property is subject to the imposition of response costs as defined in section 4.670 of this code.
- (7)** In addition to, and not in lieu of any other enforcement mechanism authorized by this code the city manager or designee may impose upon the person responsible for violation of sections 4.083 through 4.084, section 4.335, section 4.340, section 4.430 and sections 4.570 through 4.584 of this code, and violations of administrative rules adopted under sections 4.570 through 4.584 of this code, an administrative civil penalty as provided by section 2.018 of this code.
- (8)** In addition to, and not in lieu of any other enforcement mechanism authorized by this code the city manager or designee may impose upon the person responsible for violation of section 4.934 of this code, an administrative civil penalty as provided by section 2.018 of this code.

*(Section 4.996 added by Ordinance No. 20221, enacted January 22, 2001, effective February 21, 2001; and amended by Ordinance No. 20392, enacted September 26, 2007, effective October 26, 2007; Ordinance No. 20504, enacted January 28, 2013, effective March 2, 2013; Ordinance No. 20507, enacted February 20, 2013, effective March 25, 2013; administratively*

Eugene Code

*corrected on March 25, 2013; amended by Ordinance No. 20537, enacted July 28, 2014, effective August 29, 2014; and Ordinance No. 20591, enacted May 14, 2018, effective June 16, 2018.)*