

NOTICE FOR THE EUGENE REGISTER-GUARD

On Tuesday, January 19, 2021, at 7:30 p.m., the Eugene City Council will conduct a public hearing on the following ordinances:

AN ORDINANCE CONCERNING CHAPTER 4 OFFENSES; ADDING SECTION 4.040 TO THE EUGENE CODE, 1971; AMENDING SECTIONS 4.330, 4.340, 4.731, 4.755, 4.906, AND 4.922 OF THAT CODE; AND AMENDING SECTION 2.773 OF THE EUGENE CODE, 1971 TO MAKE A CORRECTION.

AN ORDINANCE CONCERNING DISPOSITION OF EUGENE WATER & ELECTRIC BOARD REAL PROPERTY AND AMENDING SECTION 2.196 OF THE EUGENE CODE, 1971.

Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, this public hearing will be held remotely using virtual meeting technology. Information about online or other options for participation will be available by 5 p.m. on January 19, 2021, at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>. Written testimony may be sent to mayorcouncilandcitymanager@eugene-or.gov or to Eugene City Manager's Office, 101 West 10th Avenue, 2nd floor, Eugene, OR 97401. Written testimony must be received by Tuesday, January 19, 2021, at 5 p.m.

These ordinances are posted on the City of Eugene website at <http://www.eugene-or.gov> and are also available by calling the City Manager's Office at 541-682-5010.

Notice posted on Sunday, January 3, 2021.

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CHAPTER 4 OFFENSES; ADDING SECTION 4.040 TO THE EUGENE CODE, 1971; AMENDING SECTIONS 4.330, 4.340, 4.731, 4.755, 4.906, AND 4.922 OF THAT CODE; AND AMENDING SECTION 2.773 OF THE EUGENE CODE, 1971 TO MAKE A CORRECTION.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 4.040 of the Eugene Code, 1971, is added to provide as follows:

4.040 Pleading Domestic Violence in Accusatory Instrument.

(1) When a crime involves domestic violence, the accusatory instrument may plead, and the prosecution may prove at trial, domestic violence as an element of the crime. When a crime is so pleaded, the words “constituting domestic violence” may be added to the title of the crime.

(2) As used in this section:

(a) “Domestic violence” means abuse between family or household members.

(b) “Family or household members” means spouses, former spouses, adult persons related by blood or marriage, persons cohabiting with each other, persons who have cohabited with each other or who have been involved in a sexually intimate relationship, or, unmarried parents of a minor child.

Section 2. Section 4.330 of the Eugene Code, 1971, is amended by adding the definitions of “Adequate bedding,” “Adequate shelter,” “Domestic animal,” “Equine,” “Minimum care,” “Physical trauma,” and “Tethering” in alphabetical order to that section, and by amending the definition of “Physical injury” to provide as follows:

4.330 Animal Control – Definitions.

For purposes of sections 4.330 to 4.500 of this chapter, the following words and phrases mean:

Adequate bedding. Bedding of sufficient quantity and quality to permit a domestic animal to remain dry and reasonably clean and maintain a normal body temperature.

Adequate shelter. Includes a barn, dog house or other enclosed structure sufficient to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury. Does not include:

(a) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;

- (b) The space under a vehicle;**
- (c) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the domestic animal's health or safety;**
- (d) Shelters made from cardboard or other materials that are easily degraded by the elements;**
- (e) Animal carriers or crates that are designed to provide temporary housing;**
- (f) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or**
- (g) Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.**

Domestic animal. Animal, other than livestock or equines, that is owned or possessed by a person.

Equine. A horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.

Minimum care. 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:

- (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. Access to snow or ice is not adequate access to potable water.**
- (c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to adequate shelter.**
- (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.**
- (e) For a domestic animal, continuous access to an area:**
 - (A) With adequate space for exercise necessary for the health of the animal;**
 - (B) With air temperature suitable for the animal; and**
 - (C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.**
- (f) For a livestock animal that cannot walk or stand without assistance:**
 - (A) Humane euthanasia; or**

(B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

Physical injury. **Physical trauma**, ~~is~~ impairment of physical condition or substantial pain.

Physical trauma. Fractures, cuts, punctures, bruises, burns or other wounds.

Tethering. Restraining a domestic animal by tying the domestic animal to any object or structure by any means. Does not include using a handheld leash for the purpose of walking a domestic animal.

Section 3. Subsections (2) and (3) of Section 4.340 of the Eugene Code, 1971, are amended to provide as follows:

4.340 Animal Neglect.

(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 **intentionally, knowingly, recklessly or with criminal negligence:**

(a) ~~fails~~ **Fails to provide minimum care for an animal in such person's custody or control; or**

(b) **Tethers a domestic animal in the person's custody or control and the tethering results in physical injury to the domestic animal.**

(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 **intentionally, knowingly, recklessly or with criminal negligence:**

(a) Fails to provide minimum care for an animal in ~~such~~ **the** person's custody or control; and ~~(b) Such~~ **the** failure to provide care results in serious physical injury or death to the animal; **or**

(b) **Tethers a domestic animal in the person's custody or control and the tethering results in serious physical injury or death to the domestic animal.**

Section 4. Section 4.731 of the Eugene Code, 1971, including the Section title, is amended to provide as follows:

4.731 Intimidation Bias Crime in the Second Degree.

(1) A person commits ~~the crime of intimidation~~ **a bias crime** in the second degree if the person:

(a) Tamper 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~~ **other person's unhooded**

status, race, color, religion, national origin, **disability, gender identity** or sexual orientation;

(b) Intentionally subjects another **person** to offensive physical contact because of the person's perception of the ~~other's~~ **other person's unhoued status**, race, color, religion, national origin, **disability, gender identity** or sexual orientation; or

(c) Intentionally, because of the person's perception of **unhoued status**, race, color, religion, national origin, **disability, gender identity** or sexual orientation of another **person** or of a member of the ~~other's~~ **other person's** family, subjects such other person to alarm by threatening:

1. To inflict serious physical injury upon or to commit a felony affecting such ~~the~~ other person, or a member of the **other** 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~~ **As used in** this section,:

(a) **"Gender identity" means an individual's gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.**

(b) **"Property"** means any tangible personal property or real property, and **"sexual orientation"** means ~~heterosexuality, homosexuality or bisexuality.~~

(c) **"Unhoued status" means that the individual lacks a fixed, regular, and adequate nighttime residence and includes individuals who:**

1. **Are living in emergency, congregate, temporary, or transitional shelters;**
2. **Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or**
3. **Are living in parked cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.**

Section 5. Section 4.755 of the Eugene Code, 1971, is amended to provide as follows:

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~~ **oral or anal** sexual intercourse; ~~or~~

(c) **Masturbation; or**

(ed) 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 **oral or anal** sexual intercourse” have the meaning found in ORS 163.305.

Section 6. Section 4.906 of the Eugene Code, 1971, including the Section title, is amended to provide as follows:

4.906 Giving False Information to Peace Officer or Enforcement Officer ~~for~~ *in Connection with a Citation or Warrant.*

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~~ ***in connection with a citation or 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~~ ***when:***

(a) The ~~officer's~~ ***officer is*** 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.~~ ***There is an outstanding warrant for the person's arrest.***

“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 7. Section 4.922 of the Eugene Code, 1971, is amended to provide as follows:

4.922 Failure to Report as a Sex Offender.

(1) A person who is required to report as a sex offender ***in accordance with the applicable provisions of ORS 163A.010, 163A.015, 163A.020 or 163A.025*** 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.~~

- (a) Fails to report when the person works at, carries on a vocation at or attends an institution of higher education;**
- (b) Fails to report following a change of school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;**
- (c) Fails to report following a change of residence;**
- (d) Fails to report a legal change of name;**
- (e) Fails to make an annual report;**
- (f) Fails to provide complete and accurate information;**
- (g) Fails to sign the sex offender registration form as required;**
- (h) Fails or refuses to participate in a sex offender risk assessment as directed by the State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority or supervisory authority;**
- (i) Fails to submit to fingerprinting or to having a photograph taken of the person's face, identifying scars, marks or tattoos; or**
- (j) Fails to report prior to any intended travel outside of the United States.**

(2) It is an affirmative defense to a charge of failure to report under subsection (1)(c) of this section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's new residence, if the person otherwise complied with all reporting requirements.

(3) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) that the person reported, in person, to the Department of State Police in Marion County, Oregon, if the person otherwise complied with all reporting requirements.

(4) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (3) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, if the person otherwise complied with all reporting requirements.

(5) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.010 (3) that the person reported to the Oregon Youth Authority if the person establishes that the authority registered the person under ORS 163A.010 (3)(c).

(6) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2) or (3) that the person

reported to the Oregon Youth Authority or a county juvenile department if the person establishes that the authority or department registered the person under ORS 163A.025 (8).

Section 8. Subsection (1) of Section 2.773 of the Eugene Code, 1971, including the Section title, is amended to provide as follows:

2.773 Municipal Court – Presiding Municipal Judge: Qualifications and Term of Office.

(1) Except as provided in this section the presiding municipal judge shall be appointed by the council for a term of four years. The presiding municipal judge shall be an independent contractor, and not an officer or employee of the city, and shall be an active member of the Oregon State Bar with at least five years experience as a practicing attorney. The presiding municipal judge shall be a resident of or maintain a principal office within the city.

Section 9. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this
___ day of _____, 2021

Approved by the Mayor this
___ day of _____, 2021

City Recorder

Mayor