

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Action: Adoption of an Ordinance Concerning Citation Authority of University of Oregon Department of Public Safety and Amending Section 4.035 of the Eugene Code, 1971

Meeting Date: November 9, 2009
Department: Eugene Police Department
www.eugene-or.gov

Agenda Item Number: 7
Staff Contact: A/Captain Richard Stronach
Contact Telephone Number: 541-682-5252

ISSUE STATEMENT

This is an opportunity for the City Council to take action on amendments to Eugene Code 4.035, which provides citation authority to University of Oregon Department of Public Safety officers to enforce sections of the Eugene Code. The amendments would permit Department of Public Safety officers to cite individuals for misdemeanors.

BACKGROUND

In 2003, the Eugene City Council adopted EC 4.035, which permits University of Oregon's Department of Public Safety (UO/DPS) officers to issue citations for offenses of the Eugene Code (EC) punishable as a violation when those crimes occurred on UO property in the presence of the public safety officer. This eliminated the need for a Eugene police officer to respond every time a UO/DPS officer witnessed the applicable violations. ("Violations" were defined in EC 4.035 as "an act made unlawful by the code that is punishable by a fine but not punishable to a term of imprisonment.") This item is before the council so that University public safety officers commissioned under ORS 352.385 can issue citations found in the Eugene Code that will be directed to the Eugene Municipal Court. UO/DPS officers already have authority to issue certain citations under provisions of the Oregon Revised Statutes and Oregon Administrative Rules, but Eugene must grant authority before citations can be issued for offenses included in the Eugene Code.

Today, UO/DPS conducts a considerable number of investigations where the involved violation is a misdemeanor crime, thus requiring a Eugene police officer to respond and issue a citation to the offender. Misdemeanors are crimes, not simply violations, and persons convicted can potentially be sentenced to jail time as well as pay fines. In these cases, UO/DPS prepares a report documenting the elements of the crime, and the involvement of the Eugene police officer is most often to simply issue the citation.

Beginning this fall, the University has reduced the Campus Unit contract with EPD from three police officer positions to one remaining officer. Responsibilities for this officer do not include call response as the primary job function; instead that position will focus on follow-up investigations. By providing UO/DPS officers the authority to issue citations for other crimes, EPD police officers will be freed from assisting UO/DPS officers with essentially a clerical function. This will make Eugene's officers available for calls for service elsewhere in the city. The ability to issue citations for these crimes will

also free up the UO/DPS officers and offenders as it will not be necessary to detain the offender until a Eugene police officer is able to respond. It should be noted that this amendment to EC 4.035 only gives UO/DPS officers the authority to issue citations for crimes; they will not be transporting and lodging offenders.

When citation authority was granted to the UO in 2003, an intergovernmental agreement (IGA) was established to identify the specific sections of the code for which citations could be issued. The proposed amendment would extend this authority to misdemeanors (in the specific code sections as determined in the memorandum of agreement between the City and the UO) that are within the lawful authority of UO/DPS public safety officers. Please see attachment B for a list of misdemeanor offenses from the Eugene Code. This attachment indicates those misdemeanors that may be considered for addition to the IGA between the UO and the City of Eugene due to their applicability to campus criminal behaviors and criminal activity.

The University and EPD chose to schedule this amendment in the fall when students returned to campus rather than during the summer months. The council heard from a wide range of speakers at the public hearing who support this amendment, including: Emma Kalloway, ASUO president; Doug Tripp, Director of Public Safety, UO; Malcom Wilson from South University Neighbors Association; Phil Farrington, representing Peace Health and University District businesses; and Paul Shang, UO Assistant VP of Student Affairs and Dean of Students. The City Council has previously received a letter from UO Vice President of Finance and Administration Frances Dyke supporting the project. The Eugene Municipal Court and the City Prosecutor have been engaged in discussions regarding the proposal and support the proposed amendment to EC 4.035.

At Councilman Zelenka's request, please see attachment C - a copy of the current intergovernmental agreement between the UO and City of Eugene that has extended authority to UO/DPS to enforce violations occurring on University property.

RELATED CITY POLICIES

The City of Eugene has previously granted authority to the UO/DPS officers to enforce certain municipal violations if there is cause for them to do so, including some violations for which there are no comparable offenses under State law, such as violation of the City's noise ordinance. Although granting such authority for municipal violations is not a common practice, the City of Eugene has also previously extended enforcement authority to Lane County Animal Regulation to enforce municipal code violations regarding animal offenses.

The City Council has two vision statements that are reflected in this proposal: Safe Community – a community where people feel safe, valued and welcome; and Effective, Accountable Municipal Government – a government that works openly, collaboratively, and fairly with the community to achieve measurable and positive outcomes.

COUNCIL OPTIONS

The council has several options, including:

- A. Adopt the ordinance concerning University of Oregon Department of Public Safety citation authority.

- B. Direct staff to amend the ordinance and schedule adoption for a later date.
- C. Take no further action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends Option A: adopt the ordinance concerning University of Oregon Department of Public Safety citation authority.

SUGGESTED MOTION

Move to adopt an ordinance concerning citation authority of University of Oregon Department of Public Safety and amending Section 4.035 of the Eugene Code, 1971

ATTACHMENTS

- A. Draft Ordinance to Amend Eugene Code 4.035
- B. Eugene Code Potential Misdemeanor Citation Authority
- C. 2005 Intergovernmental Agreement between the University of Oregon and the City of Eugene

FOR MORE INFORMATION

Staff Contact: Linda Phelps, Police Planner
Telephone: 541-682-6308
Staff E-Mail: linda.m.phelps@ci.eugene.or.us

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITATION AUTHORITY OF UNIVERSITY OF OREGON DEPARTMENT OF PUBLIC SAFETY AND AMENDING SECTION 4.035 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 4.035 of the Eugene Code, 1971, is amended to provide as follows:

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:
- (a) The violation occurs on University of Oregon property in the presence of the public safety officer;
 - (b) The public safety officer has reasonable grounds to believe that the conduct observed constitutes a violation **of this code**; and
 - (c) The city manager has approved an intergovernmental agreement with the University of Oregon **specifying the sections of this code for which citations may be issued to persons allegedly in violation of the section and** containing such terms as the city manager determines are appropriate.
- ~~[(2)]~~ As used in this section, "violation" means an act made unlawful by this code that is punishable by a fine but not punishable by a term of imprisonment. A "violation" may carry a penalty of punishment in addition to a fine as long as the punishment does not include a term of imprisonment.]

Section 2. 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 _____, 2009

Approved by the Mayor this
____ day of _____, 2009

City Recorder

Mayor

ATTACHMENT B

Chapter 4 Offenses Eugene Code - Misdemeanors

	Eugene Code	Description	May Be Considered for the IGA Amendment	
NOISE MAKING	4.080	Noise Disturbance	Yes	
	4.081	Repetition and Failure to Cease	Yes	
ALCOHOL & DRUGS	4.110	Sales, etc. to certain persons prohibited	Yes	
	4.145	Misrepresentation of age by minor		
	4.190	Consumption/Possession in Unlicensed Public Place Prohibited (open container)	Yes	
ANIMAL REGULATIONS	4.335	Animal Abuse		
	4.340	Animal Neglect		
	4.500	Interference with a Police animal		
MORALS & PUBLIC CONDUCT	4.705	Offensive physical contact prohibited		
	4.707	Pedestrians	Yes	
	4.710	Telephonic harassment	Yes	
	4.725	Disorderly conduct	Yes	
	4.726	Harassment	Yes	
	4.728	Recklessly Endangering another person	Yes	
	4.729	Assault	Yes	
	4.730	Menacing	Yes	
	4.731	Intimidation in the second degree	Yes	
	4.745	Prostitution		
	PROPERTY	4.780	Criminal Mischief in the third degree	Yes
		4.782	Criminal Mischief in the second degree	Yes
4.806		Criminal Trespass in second degree by a guest		
4.807		Criminal Trespass in second degree	Yes	
4.808		Criminal Trespass in first degree	Yes	
4.809		Criminal Trespass while in possession of a firearm		
4.810		Criminal Trespass at a sports event		
4.812		Violating privacy of another	Yes	
4.820		Petty Larceny		
4.822		Theft	Yes	
	4.825(1,2)	Shoplifting in second and first degree	Yes	

	Eugene Code	Description	Related to University Issues
DOWNTOWN PUBLIC SAFETY ZONE			
	4.879	Violation of DPSZ Restrictions	
MISC.			
	4.880	Possession of a Burglary Tool or Theft Device	Yes
	4.882	Unlawful Entry into a Motor Vehicle	Yes
	4.887	Carrying of Concealed Weapon	Yes
	4.888	Unlawful Possession of Firearms	
	4.904	Improper Use of Emergency Telephone System	
	4.905	Initiating a False Report	
	4.906	Giving False Information to a Peace Officer for a Citation	Yes
	4.907	Interfering with a Police Officer	
	4.908	False Swearing	
	4.910	Resisting Arrest	
	4.912	Hindering Prosecution	Yes
	4.920	Criminal Impersonation	
	4.922	Failure to Report as a sex offender	
	4.930(1,2)	Theft of services third degree	Yes
	4.941	Interference with a Firefighter or EMT	
	4.942	Obstructing Governmental or Judicial Administration	
	4.943	Tampering with physical evidence	Yes
	4.977	Interfering with public transportation	

INTERGOVERNMENTAL AGREEMENT

BETWEEN: The City of Eugene, an Oregon (City)
municipal corporation

AND: State of Oregon, acting by and through the State
Board of Higher Education on behalf of the University
of Oregon (University)

**EFFECTIVE
DATE:** October 11, 2005

**CITY OF EUGENE
CONTRACT
NUMBER:** 2006-03208

RECITALS

- A. ORS 190.110 permits a unit of local government and a state agency to enter into an agreement for the performance of required duties or the exercise of permitted powers.
- B. City, acting through its Eugene Police Department, provides police protection services for its municipality.
- C. Eugene Code Section 4.035 authorizes University public safety officers to issue citations for violations of the Eugene Code in certain circumstances if the city manager has approved an intergovernmental agreement.

AGREEMENT

The parties, therefore, agree as follows:

1. Duration and Termination.

This agreement shall become effective upon signing and shall remain in effect unless terminated by either party upon ninety (90) days prior written notice to the persons designated in paragraph 5.

2. Authorization.

2.1 University public safety officers are authorized by the City to issue citations as provided in the Eugene Code Section 4.035. Notwithstanding and without

limiting this citation authority, the City and University agree that the University public safety officers may initially issue citations only for the following sections of the Eugene Code: 4.050, 4.060, 4.065, 4.110(3), 4.115, 4.240, 4.350, 4.425, 4.430, 4.435, 4.760, 4.770, 4.830, 4.885, 4.912 (violation), 5.425 or 6.805. The City may, by notice, add, delete or amend the list of sections for which University public safety officers may issue citations. In addition, the University may request the City add, delete or amend the list.

2.2 When issuing citations under this authority, University public safety officers will use a form of citation approved by the City. University public safety officers understand the importance of providing accurate and complete information.

3. Records and Data Management.

3.1 University public safety officers will provide City all citations issued under this agreement and will enter the citations directly into the AIRS system, as soon as possible, but in no event later than the close of the next business day following the issuance of the citation.

3.2 University will retrieve trial notices from Eugene Municipal Court at least every other day the Eugene Municipal Court is open and will provide records, documents, data or other information necessary for City to prosecute violations for citations issued pursuant to this agreement. This provision shall not be interpreted to require University to provide information to City where disclosure of such information would be contrary to state or federal law.

4. Supervision and Training of University Public Safety Officers.

4.1 University public safety officers are University employees. University is responsible for their selection, employment, compensation, supervision, discipline and training. University shall be solely responsible for and have control over means, methods, techniques, and procedures for all the work to be performed by University public safety officers.

4.2 University will arrange for participation of University public safety officers in annual information sessions concerning procedural matters, including but not limited to trial scheduling and completing and processing citations, provided by Eugene Municipal Court.

5. Contract Administration.

Each party designates the following as its representative for purposes of receiving notices required under this agreement:

- a. University: Thomas R. Hicks
Office of Public Safety
University of Oregon

1319 East 15th Avenue
Eugene, OR 97403
541-346-5444

b. City: Lieutenant Tom Turner
Eugene Police Department
777 Pearl Street, Room 107
Eugene, OR 97401
541-682-5164

Each party may change its designated representative by giving written notice to the other party. Notices permitted or required by this IGA shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to the representative designated in this paragraph 5. Any party may change its address by notice given to the others in accordance with this paragraph.

6. Indemnification.

6.1 To the extent legally possible, University shall indemnify and hold harmless the City and its officers, agents, and employees, from and against any and all claims, actions, and liabilities arising out of any act or failure to act by the University and the University's employees, agents and officers.

6.2 To the extent legally possible, City shall indemnify and hold harmless the University and its officers, agents, and employees, from and against any and all claims, actions, and liabilities arising out of any act or failure to act by the City and the City's employees, agents and officers.

7. Interpretation.

This contract shall be governed by and interpreted in accordance with the laws of the state of Oregon. The parties to this contract do not intend to confer on any third party any rights under this contract.

8. Jurisdiction and Venue.

All actions relating to this contract shall be tried before the courts of the state of Oregon to the exclusion of all other courts that might have jurisdiction apart from this provision. Venue in any action shall lie in the Circuit Court of Lane County, Oregon.

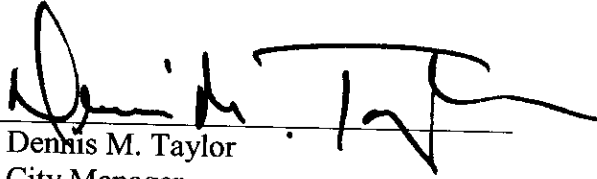
9. Integration

This contract embodies the entire agreement of the parties with respect to the subject matter thereof. There are no promises, terms, conditions or obligations other than those contained herein. This contract shall supersede all prior communications,

representations or agreements, either oral or written, between the parties. This contract shall not be amended except in writing, signed by both parties.

City of Eugene

By:


Dennis M. Taylor
City Manager

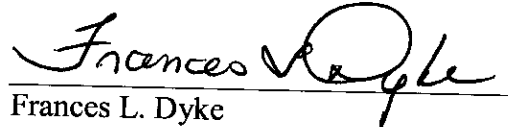
Date:

10-14-05

RD.

**State of Oregon acting by and through
the State Board of Higher Education
on behalf of the University of Oregon**

By:

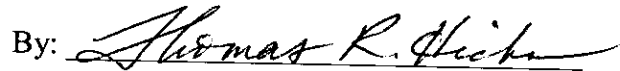

Frances L. Dyke
Vice President for Administration
University of Oregon

Date:

10-14-05

**University of Oregon
Department of Public Safety**

By:



Thomas Hicks
Interim Director

Date:

October 14, 2005