

**ORDINANCE NO. 20205**

**AN ORDINANCE CONCERNING PROSTITUTION-FREE ZONES; AND ADDING SECTIONS 4.746, 4.747, 4.748, 4.749 AND 4.750 TO THE EUGENE CODE, 1971.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sections 4.746, 4.747, 4.748, 4.749 and 4.750 of the Eugene Code, 1971, are added to provide:

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.

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 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.

4.748            Issuance of Notice to Show Cause. When a peace officer arrests a person or issues a 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;
- (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.

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.

#### 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 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;
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

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 2.** The City Recorder, at the request of, or with the concurrence 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  
7<sup>th</sup> day of August, 2000**

**Approved by the Mayor this  
7<sup>th</sup> day of August, 2000**

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**City Recorder**

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**Mayor**