City Council
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AMENDED AGENDA
EUGENE CITY COUNCIL
April 15, 2019

7:30 p.m. CITY COUNCIL PUBLIC HEARING AND MEETING
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

Meeting of April 15, 2019;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Betty Taylor, President	Emily Semple, Vice President
Greg Evans	Chris Pryor
Mike Clark	Claire Syrett
Jennifer Yeh	Alan Zelenka

Note: This agenda has been amended to indicate possible action on Item 2.

7:30 p.m. CITY COUNCIL PUBLIC HEARING AND MEETING
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

1. **Items of Interest**

2. **PUBLIC HEARING AND POSSIBLE ACTION: An Ordinance Concerning Appointment of Presiding Municipal Judge and Amending Section 2.011 of the Eugene Code, 1971.**

3. **PUBLIC HEARING AND POSSIBLE ACTION: An Ordinance Adopting Hazardous Substance User Fees for the Fiscal Year Commencing July 1, 2019, and Providing for an Immediate Effective Date.**

4. **ACTION: An Ordinance Concerning Unlawful Transfer on Vehicular Portion of Right-of-Way, Adding Section 5.170 to the Eugene Code, 1971, and Amending Section 5.990 of that Code.**

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010,
or visit us online at ***www.eugene-or.gov.***

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Public Hearing and Possible Action: An Ordinance Concerning Appointment of Presiding Municipal Judge and Amending Section 2.011 of the Eugene Code, 1971.

Meeting Date: April 15, 2019
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Becky DeWitt
Contact Telephone Number: 541-682-5616

ISSUE STATEMENT
This public hearing is an opportunity for the public to comment on a proposed ordinance that would amend the code and hire the presiding judge as either a City employee or an independent contractor.

BACKGROUND
The presiding Municipal Court judge performs and oversees all judicial functions of the Eugene Municipal Court. Historically, the presiding judge has been an independent contractor that is paid a set hourly amount to perform the work outlined in their contract as well as an additional monthly amount to cover time spent attending required meetings. Current code stipulates a detailed process for appointment of the municipal judge.

At the January 9 work session council expressed an interest in exploring hiring the municipal judge as a regular employee that reports directly to council as the City Manager and Police Auditor do. At the January 28, 2019, work session City staff presented information related to options for filling the municipal judge position which included draft code amendments as well as a draft job description for the municipal judge.

Based on this information, council directed the City Manager to present the proposed code amendments for public hearing, to schedule time to discuss the job description and salary for the municipal judge position, and to schedule a future date in order for council to have the opportunity to interview the current associate judge in consideration for a direct appointment into the municipal judge position.

The proposed code amendment stipulates that the presiding judge shall be "hired and accountable to the city council. The city council shall hire, supervise, and specify the salary of the presiding municipal judge, who shall serve at the pleasure of the city council. All city council decisions regarding the presiding municipal judge will be made by a simple majority vote of the city council."

Staff will present options and additional detail related to the job description and salary for the municipal judge position at the work session on April 17, 2019.

PREVIOUS COUNCIL DIRECTION

January 9, 2019, City Council Work Session

Councilors expressed general support for keeping the delineation of the council's three employees as clear as possible; pursuing a salaried model, rather than contracted employee; and involving the entire council in a discussion about the parameters, qualifications, and process for hiring a new judge.

January 28, 2019, City Council Work Session

Councilors reiterated their support for transitioning to a salaried model for the Municipal Court Presiding Judge and for pursuing a direct-appoint of Judge Greg Gill.

> Move to direct the City Manager to 1) bring back the proposed code language in the AIS, Attachment A to a public hearing to make the City Judge a council employee and 2) to schedule as soon as practicable an interview with Judge Gill to consider the possibility of direct appointment of him. *(Motion passed.)*

COUNCIL OPTIONS

The following are options for council consideration:

1. Approve the code changes and adopt the ordinance as attached.
2. Modify the code changes and hold an additional public hearing to adopt the modified ordinance.
3. Take no action.

SUGGESTED MOTION

Move to adopt Council Bill 5204, An Ordinance Concerning Appointment of Presiding Municipal Judge and Amending Section 2.011 of the Eugene Code, 1971.

ATTACHMENTS

A. Proposed Ordinance

FOR MORE INFORMATION

Staff Contact: Becky DeWitt
Telephone: 541-682-5616
Staff E-Mail: bdewitt@eugene-or.us

ORDINANCE NO. _____

AN ORDINANCE CONCERNING APPOINTMENT OF PRESIDING MUNICIPAL JUDGE AND AMENDING SECTION 2.011 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.011 of the Eugene Code, 1971, is amended to provide as follows:

2.011 City Council - Appointment of Municipal Judge.

(1) The presiding municipal judge shall be ***hired and accountable to the city council. The city council shall hire, supervise, and specify the salary of the presiding municipal judge, who shall serve at the pleasure of the city council. All city council decisions regarding the presiding municipal judge will be made by a simple majority vote of the city council.*** [~~appointed in the manner provided in this section.~~

~~(a) Prior to appointing the presiding municipal judge, the council shall cause contract(s) for the position to be prepared and advertised, and solicit applications for the position. The council shall review the applications, and by majority vote determine which of the applicants shall be referred to a screening committee nominated by the mayor and appointed by the council for interview. The screening committee shall be composed of one person from each of the following: the University of Oregon law school faculty; the Lane County public defender's office; the Lane County district attorney's office; the city's department of public safety; the city's human rights commission; the roster of local state or federal judges; and the city's municipal court staff. At the time of referral, the council shall indicate to the screening committee the number of finalists to be referred for consideration by the council. The screening committee shall interview the applicants and refer the finalists to the council. The council shall select the presiding municipal judge from among those finalists.~~

~~(b) Notwithstanding the provisions of subparagraph (a), the council may re-appoint the incumbent presiding municipal court judge without first undertaking any of the actions specified in subparagraph (a).~~]

(2) The performance of the presiding municipal judge shall be evaluated**:**

(a) Through an informal self-evaluation submitted to the council annually;

(b) Through an informal evaluation submitted to the council every two years; and
(c) Through a formal evaluation, conducted every four years by an evaluation committee.

The informal evaluation shall consist of a completed self-evaluation form, together with evaluation forms completed by representatives of the department of public safety, the city prosecutor's office, and the public defender's office. The formal evaluation process shall include a public hearing. Members of the evaluation committee shall be nominated by the mayor and appointed by the council. The committee shall be composed of not less than five persons, including at least one member of the human rights commission, two attorneys familiar with the municipal court, and two other persons generally familiar with the judicial system. The evaluation report shall be submitted to and accepted by the council. [~~The salary of the presiding municipal judge shall be reviewed as part of the city's budget process, and a written recommendation of the proposed rate shall be submitted to the council.~~]

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 _____, 2019

_____

City Recorder

Approved by the Mayor this

____ day of _____, 2019

_____

Mayor

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Public Hearing and Possible Action: An Ordinance Adopting Hazardous Substance User Fees for the Fiscal Year Commencing July 1, 2019, and Providing for an Immediate Effective Date.

Meeting Date: April 15, 2019
Department: Fire
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: James Lenhart
Contact Telephone Number: 541-682-7118

ISSUE STATEMENT

In accordance with provisions of Section 54, Article VII of the Eugene City Charter and Section 3.694 of the City Code, the cost of running the Eugene Toxics Right-to-Know Program must be fully funded by fees assessed to local manufacturing businesses that are hazardous substance users.

To support the program for the fiscal year July 1, 2019, through June 30, 2020 (FY20), the Toxics Board recommends that City Council adopt a fee of $62.230 per full-time-equivalent employee, up to the maximum of $2,000 per entity as provided by state law. The $62.230 is a decrease of $3.20 per FTE in comparison to last year's fee. Program staffing level is to continue at 90 percent, which will facilitate staff time spent on implementing a comprehensive audit process of businesses currently in the program to ensure accuracy of reporting hazardous substance use and reporting FTE employees, continuing to identify businesses that meet the program requirements, and improving outreach to the public and businesses that report under the program.

To comply with Charter requirements, the fees should be adopted and effective before May 1st. Therefore, this item is scheduled for public hearing and possible action at a single meeting and provides for an immediate effective date. *The unanimous consent of the City Council is required for the council to enact this ordinance following the public hearing. The affirmative vote of two-thirds of the council is required for an effective date less than 30 days after enactment of the ordinance.*

BACKGROUND

Each year, beginning in 1998, council has approved fees to support the Eugene Toxics Right-to-Know Program, first by resolution, and later by ordinance due to changes in state law. Throughout the life of this program, the City has always assessed fees based on the number of persons employed by businesses required to be in the program. This is because the City is prohibited by state law from charging fees based on the quantity of chemicals used.

Until 2004, the methodology was to poll businesses at the beginning of each calendar year and ask them to calculate and report their FTE for the preceding calendar year, then divide the program's

revenue requirement for the upcoming fiscal year by the total number of FTE reported, and bill accordingly.

In 2004, a state-imposed fee cap of $2,000 per entity took effect (in accordance with ORS 453.370(2)(b)). Since that time, businesses are still polled for their FTE figures, the program's revenue requirement is still divided by the total number of FTE reported, and businesses are still billed accordingly, with payment due May 1 each year as provided by the Charter. Additionally, the state-imposed fee cap of $2,000 per entity is taken into account. However, because of the state-imposed fee cap, those with a high number of FTE now pay a smaller amount per FTE to support the program. This has resulted in fee reductions for larger businesses, and fee increases for businesses that have not reached the $2,000 state-imposed fee cap. To date, efforts to address this perceived inequity, both locally and before the State Legislature, have been unsuccessful. Therefore, the recommendation before council at this time is to adopt a similar fee, similarly calculated, to those adopted in each of the past fourteen years.

It is important to note that the state-imposed fee cap of $2,000 per entity has remained the same since taking effect in 2004. This state-imposed fee cap, coupled with rising program costs as well as inflation (all of which are beyond the Toxics Board's scope of control), have created a very serious structural funding issue for the program.

In a continued effort to balance the financial impact—especially for businesses that have not reached the $2,000 state-imposed fee cap—with maintaining staffing at a reasonable level, the Toxics Board voted unanimously to recommend a fee of $62.230 per FTE, which covers a budget of $130,610.10 to support the program for FY20.

To calculate the fees for FY20, the total number of 4,652.306 FTE reported was used in conjunction with the revenue requirement of $130,610.10; then considering the maximum of $2,000 per entity as provided by state law, resulted in a fee of $62.230 per FTE, up to the state-imposed fee cap of $2,000 per entity. Compared to last year's fee of $65.43 per FTE, this is a decrease of $3.20 per FTE. Any business with more than 32.13 FTE would pay the state-imposed fee cap of $2,000 per entity.

In consideration of the Triple Bottom Line, the Eugene Toxics Right-to-Know Program and the work of the Toxics Board supports valuing all people and assists City Council, staff and the public to be responsible stewards of our physical assets and natural resources.

Section 54, Article I of the City Charter reads as follows: *The people of Eugene do hereby find that:*

A. *Exposure to toxic chemicals can damage human health and the environment; and*
B. *Citizens have a fundamental right to know the identity and amounts of toxic chemicals that are released into the workplaces, air, water, soil, and environment of their community.*

The Eugene Toxics Right-to-Know Program requires businesses who meet certain criteria to provide information to the public concerning the use and disposition of federally-listed hazardous substances. The program is overseen by the Toxics Board who makes policy recommendations governing the program, and is authorized to enforce the reporting requirements and impose penalties. The Toxics Board is comprised of seven members: three members who are employed by

or are agents of businesses required to report under the law; three who have a proven record of environmental advocacy; and one neutral member.

PREVIOUS COUNCIL DIRECTION

There has been no previous City Council direction on this year's Toxic User Fee. Previously, each year the City Council has passed an ordinance updating the user fee per the Toxics Right-to-Know Board's recommendations.

COUNCIL OPTIONS

1. Adopt the Ordinance as proposed at a single meeting, effective immediately.
2. Adopt the Ordinance at a single meeting with a 30 day effective date.
3. Not act on the Ordinance tonight, in which case action will be scheduled for a future council meeting.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends Option 1, adoption of the ordinance at a single meeting, with an immediate effective date.

SUGGESTED MOTION

Move to adopt Council Bill 5205, an Ordinance Adopting Hazardous Substance User Fees for the Fiscal Year commencing July 1, 2019, and providing for an immediate effective date.

ATTACHMENTS

A. Proposed ordinance adopting hazardous substance user fees for the fiscal year commencing July 1, 2019
B. Toxics Right-to-Know program workplan for the fiscal year commencing July 1, 2019
C. Toxics Right-to-Know program user fee history document

FOR MORE INFORMATION

Staff Contact: James Lenhart
Telephone: 541-682-7118
Staff E-Mail: jlenhart@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE ADOPTING HAZARDOUS SUBSTANCE USER FEES FOR THE FISCAL YEAR COMMENCING JULY 1, 2019, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

The City Council of the City of Eugene finds that:

A. Pursuant to Article VII of Amendment IV to the Eugene Charter of 2002 (the "Amendment"), the City Council has previously adopted Resolutions and Ordinances establishing fees to be paid by hazardous substance users within the City with the most recent being Ordinance No. 20589 which established fees to be paid by hazardous substance users for the fiscal year commencing July 1, 2018.

B. In accordance with other requirements of the Amendment, the City Council, by ordinance, has adopted the City's Hazardous Substance Tracking Instructions, which provide guidance to hazardous substance users in completing and submitting the reports required by the Amendment.

C. Pursuant to ORS 453.370(2)(a), the City must adopt the hazardous substance user fee schedule via ordinance after notice and public hearing. The City published and posted notice of the public hearing to be held on April 15, 2019, concerning the proposed ordinance adopting hazardous substance user fees, and such hearing was held before the Eugene City Council on that date.

D. Pursuant to ORS 453.370(2)(b), the City cannot adopt a fee schedule that imposes a fee of more than $2,000 for any single facility in any calendar year.

E. The Toxics Board has recommended a fee of $62.23 per FTE, not to exceed $2,000 for any single facility for the 2019 calendar year, in order to cover the expenses of the program for the fiscal year commencing July 1, 2019.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. A fee of $62.23 per FTE, not to exceed $2,000 for any single facility for the 2019 calendar year, is hereby imposed as the fee to be paid by hazardous substance users within the City of Eugene.

Section 2. No enforcement action shall be taken against any reporting company for failure to pay until after June 1, 2019.

Section 3. As used in this Ordinance, the terms "FTE" and "hazardous substance users" have the meanings ascribed to them in Section 3.692 of the Eugene Code, 1971.

Section 4. The fees collected pursuant to this Ordinance shall be used for the purpose of operating the Toxics Right-to-Know Program created by Amendment IV to the Eugene Charter of 2002 and implemented by subsequent ordinances of the City.

Section 5. Pursuant to Section 32(2) of the Eugene Charter of 2002, with the affirmative vote of two-thirds of the members of the City Council, this Ordinance shall become effective immediately upon adoption by the City Council and approval by the Mayor. An immediate effective date is necessary to ensure the City's updated hazardous substance user fees are effective prior to May 1, 2019, as required by Eugene Code section 3.694 and Article VII of Amendment IV to the Eugene Charter of 2002.

Passed by the City Council this

____ day of April 2019.

City Recorder

Approved by the Mayor this

_____ day of April, 2019.

Mayor

ATTACHMENT B

TOXICS RIGHT-TO-KNOW WORKPLAN

Fiscal Year ‘20

James Lenhart
Program Manager, City of Eugene
1320 Willamette St., Eugene, OR 97401

April 15, 2019, Public Hearing and Meeting – Item 3

Introduction

The Toxics Right-to-Know Program started in 1996 by amendment to the Eugene City Charter. The Program was created to facilitate the collection and distribution of information related to the use and disposition of federally listed hazardous substances, by qualifying businesses. Since 1998 the program as been funded through the assessment of fees paid by businesses which are: physically located within the Eugene city limits, use any quantity of listed hazardous substances, have at least 10 full time equivalent (FTE) employees, and operate within the #2000-3999 SIC codes.

Each section of the workplan as a summary, a list of general tasks, and an estimate of staff time allotment. Tasks are grouped by similarity and by synergy (a decrease in time spent on one can lead to an increase in another). Due to the interaction between tasks the time allotment is given by section.

For fiscal year ’20, the Workplan has been created with a 90/10 split of staffing between the Toxics Program and Eugene Springfield Fire Marshal’s Office. The Toxics Program will fully fund ninety percent (90%) of staffing personnel costs (e.g. wages, benefits, taxes) and receive a direct proportional amount of staff time over the course of the fiscal year. The remaining ten percent (10%) will be funded by and time allotted to special projects as assigned by the Fire Marshal’s Office.

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Budget, Fees, & Workplan

The Program facilitates the annual requirement for the Toxics Board to recommend a program fee schedule to the City Council. The Program develops: the annual budget with the Fire Administration, annual Workplan with the Fire Marshal's Office and Toxics Board, and a fee schedule for the Toxics Board approval. The workplan and budget are utilized as supporting documentation for the proposed annual fee schedule. By charter mandate the fee schedule is to fully fund the program through collected fees.

1. Facilitate process to assist Toxics Board recommend the annual hazardous substance user fees.[1]
2. Work with Fire Chief and the Toxics Board to develop a work plan and facilitate process to provide recommendation to City Manager and City Council for adoption as part of the annual hazardous substance user fee.[2]
3. Facilitate process to assist City Council approve the annual hazardous substance user fees; and Prepare and submit necessary paperwork and attend associated City Council Public Hearings and Meetings.[3]

Estimated Budget, Fees, & Workplan Total = 5%

[1] Article VI, Section 6.2.B.1
[2] Article VI, Section 6.3
[3] Article VII, Section 7.A

Education, Outreach & PR

Providing orientations and educational sessions with new businesses and board members along with informational presentations to community members is a critical element of the program. By ensuring full understanding of the scope and purpose of the program, businesses are more likely to comply with the mandate of the program.

1. Maintain content on the Toxics Board and Toxics Program's webpages.[4]
2. Provide an orientation of the Toxics Program for new Toxics Board members, manufacturing business representatives, environmental justice and advocacy representatives and interested members of the public.[4]
3. Build and maintain good working relationships between the Toxics Program Manager and Toxics Board members, the manufacturing business community, the environmental justice and advocacy community and other program stakeholders. [4]
4. Conduct public education and outreach efforts to increase transparency, understanding and awareness of the program; including issue news releases to keep the media and community informed; collaborate with the University of Oregon and Oregon State University, and to provide graduate students with internship opportunities; hold ongoing informational work sessions to give businesses and the community opportunities to learn and ask questions about the program, and provide feedback; Monitor the Toxics Board's email box, and facilitate responses accordingly. [4]

Estimated Education, Outreach, & PR Total = 17%

[4] Necessary to support charter amendment

Compliance and Auditing

As much as possible, the program attempts to proactively encourage compliance. Through proper guidance and education, provided to businesses within the program, coupled with auditing of submitted data the need for more extreme activities from non-compliance has been kept to a minimum. The charter mandated activities, for when a business is non-compliant, have been budgeted at under 1% of program staff time since they are on an as needed basis and rarely needed.

1. Work with businesses in the program to assist them in successfully meeting Charter Amendment hazardous substance reporting requirements and Charter mandated deadline of April 1st: including providing information and assistance.[5]
2. Report to the Fire Marshal the names of any hazardous substance users in non-compliance with hazardous materials balance reports requirements.[6]
3. Publish names of non-complying entities in the daily newspaper.[7]
4. Investigate evidence of reports not filed in compliance with the Charter Amendment.[8]
5. Audit the accuracy of hazardous materials balance reports for the Fire Marshal: including follow-up work with businesses to assist them in reconciling errors accurately (site audits are permitted, not required); Conduct site visits of newly-identified businesses as part of Toxics Program representative orientation; Work with Toxics Board to update procedure to implement a more comprehensive audit process, including cross-referencing data reported under other programs.[9]
6. Work with businesses in the program to assist them in reporting FTE, which the annual fee is based upon; Work with Toxics Board to implement procedure to verify accuracy of number of reported FTE; Perform data entry, print and send invoices to businesses in the program; and Assist businesses in the program meeting the Charter-mandated deadline of May 1st for payment of invoices.[10]
7. Enforce reporting requirements and impose penalties for noncompliance.[11]
8. Order non-complying repeat offenders to cease and desist using hazardous substances in the City of Eugene.[12]
9. Members of the Public: Petition the Toxics Board against hazardous substance users or persons for failure to comply with the Charter Amendment.[13]

Estimated Compliance & Auditing Total = 25%

[5] Article IV, Section 4
[6] Article VI, Section 6.2.C
[7] Article VI, Section 6.2.D
[8] Article VI, Section 6.2.E
[9] Article VI, Section 6.2.F
[10] Article VII, Section 7.A
[11] Article VIII, Section 8.1
[12] Article VII Section 8.2.E
[13] Article VIII, Section 8.3

Program Management

Beyond the previous sections there are many tasks that must be completed to maintain an effective and efficient program. The Program operates in a balance between needs of the Board, facilitating the program mandates, and needs of the Fire Marshal's Office. Annual reporting, process evaluation and improvement, program research, and much more must take place for the program to operate and optimum efficacy.

1. Facilitate process to assist Toxics Board provide forms for hazardous materials balance reports to be filed electronically that are compatible with the Eugene Public Library's computer systems; and work with Information Technology staff to build or purchase a more efficient records and data management program/system.[14]
2. Collaborate with other City staff and community organizations on relevant citywide projects and processes (e.g.: participate as a member of the Lane County Local Emergency Planning Committee (LEPC); participate in the Envision Eugene planning process).[15]
3. Facilitate process to assist Toxics Board make hazardous materials balance reports available at the Eugene Public Library.[16]
4. Facilitate process to help Toxics Board file an annual report on the effectiveness of the program, and any recommendations for improvements: including preparing draft report for Toxics Board review, edits and approval, and submitting to City Council on the Toxics Board's behalf.[17]
5. Monitor applicable Federal regulatory program websites and state program databases to keep related local program information current and accurate.[15]
6. Conduct inventory processes to identify covered entities and implement processes and procedures to proactively identify covered entities in the future because with each business that is successfully identified, it extends the financial burden across industry more fairly and equitably and lowers the cost per full-time equivalent (FTE) employee and the cost to smaller businesses. [15]
7. Conduct ongoing continuous improvement program and process analyses and make recommendations to Toxics Board for improvements as necessary. [15]

Estimated Program Management Total = 32%

[14] Article IV, Section 4
[15] Necessary to support charter amendment
[16] Article V, Section 5.1.F
[17] Article VI, Section 6.2.B.3

Board Support

A critical element of the program operations is to support the Toxics Right-to-Know Board to facilitate effective operation. The Program facilitates: communication of recommendations from the Board to the City Council and City Manager, posting and filling of Board vacancies, coordination of Board meetings, and other special projects as developed by the Board.

1. Facilitate process to ensure Toxics Board members are appointed; including filling vacancies on the Toxics Board due to mid-term resignations; Prepare and submit necessary paperwork and attend City Council Public Hearings and Meetings for new Toxics Board member candidate interviews and appointments.[18]
2. Facilitate process to assist City Council enact reasonable ordinances necessary for carrying into execution the provisions of the Charter Amendment upon recommendation of the Toxics Board (not already specifically shown above).[19]
3. Facilitate Toxics Board meetings and completion of projects and processes to ensure compliance with the Charter Amendment (including Toxics Board meeting preparation, attendance and follow-up). [20]
4. Facilitate process to assist the Toxics Board recommend and the City Manager conduct Administrative Rule processes for updates to the Hazardous Substance Tracking Instructions and List of Reportable Chemicals; and Publish and distribute Hazardous Substance Tracking Instructions and List of Reportable Chemicals to reporting businesses in the program; publish corresponding Citizen Guide.[20]

Estimated Board Support Total = 11%

Fire Marshal's Office Projects

When 100% of the staffing allotment is not planned to be utilized by the Toxics Program, the remainder is funded and utilized by the Fire Marshal's Office. This time can be utilized for special projects on an as needed basis to support the mission of the Fire Marshal's Office and the Eugene Springfield Fire Department as a whole.

Fire Marshal's Office Projects Total = 10%

[18] Article VI, Section 6.1
[19] Article X, Section 10
[20] Necessary to support charter amendment.

Appendix A – Program Task Matrix

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
Charter Mandate – Article VI, Section 6.2.B.1 and Article VII, Section 7.B: Toxics Board: Recommend annual hazardous substance user fees	Facilitate process to assist Toxics Board recommend the annual hazardous substance user fees	2%	Budget, Fees, & Workplan #1
Charter Mandate – Article VI, Section 6.3: City Manager: Work with the Toxics Board jointly to determine the appropriate support services for the program	Work with Fire Chief and the Toxics Board to develop a work plan, and facilitate process to provide recommendation to City Manager and City Council for adoption as part of the annual hazardous substance user fee	2%	Budget, Fees, & Workplan #2
Charter Mandate – Article VII, Section 7.B: City Council: Approve and amend as necessary annual hazardous substance user fees	Facilitate process to assist City Council approve the annual hazardous substance user fees; and Prepare and submit necessary paperwork and attend associated City Council Public Hearings and Meetings	1%	Budget, Fees, & Workplan #3
Necessary to Support Charter Amendment	Maintain content on the Toxics Board and Toxics Program's webpages	2%	Education, Outreach, & PR #1
Necessary to Support Charter Amendment	Provide an orientation of the Toxics Program for new Toxics Board members, manufacturing business representatives, environmental justice and advocacy representatives and interested members of the public	3%	Education, Outreach, & PR #2
Necessary to Support Charter Amendment	Build and maintain good working relationships between the Toxics Program Manager and Toxics Board members, the manufacturing business community, the environmental justice and advocacy community and other program stakeholders	3%	Education, Outreach, & PR #3
Necessary to Support Charter Amendment	Conduct public education and outreach efforts to increase transparency, understanding and awareness of the program; including issue news releases to keep the media and community informed; collaborate with the University of Oregon and Oregon State University, and to provide graduate students with internship opportunities; hold ongoing informational work sessions to give businesses and the community opportunities to learn and ask questions about the program, and provide feedback; Monitor the Toxics Board's email box, and facilitate responses accordingly	9%	Education, Outreach, & PR #4
Charter Mandate – Article IV, Section 4: Hazardous Substance Users: File annual, public, hazardous materials balance report; and File a signed declaration certifying that the hazardous materials balance reports filed are accurate and complete	Work with businesses in the program to assist them in successfully meeting Charter Amendment hazardous substance reporting requirements and Charter-mandated deadline of April 1st: including providing information and assistance	12%	Compliance and Auditing #1
Charter Mandate – Article VI, Section 6.2.C: Toxics Board: Report to the Fire Marshal the names of any hazardous substance users in non-compliance with hazardous materials balance reports requirements	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #2

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
Charter Mandate – Article VI, Section 6.2.D: Toxics Board: Publish names of non-complying entities in the daily newspaper	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #3
Charter Mandate – Article VI, Section 6.2.E: City Fire Marshal: Investigate evidence of reports not filed in compliance with the Charter Amendment	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #4
Charter Mandate – Article VI, Section 6.2.F: City Fire Marshal: Audit the accuracy of the reporting processes of each hazardous substance user in an order such that all hazardous substance users are audited in a random order at least once every three years	Audit the accuracy of hazardous materials balance reports for the Fire Marshal: including follow-up work with businesses to assist them in reconciling errors accurately (site audits are permitted, not required); Conduct site visits of newly-identified businesses as part of Toxics Program representative orientation; Work with Toxics Board to update procedure to implement a more comprehensive audit process, including cross-referencing data reported under other programs	9%	Compliance and Auditing #5
Charter Mandate – Article VII, Section 7.A and Article VII, Section 7.C: Hazardous Substance Users: Pay an annual fee to cover program expenses	Work with businesses in the program to assist them in reporting FTE, which the annual fee is based upon; Work with Toxics Board to implement procedure to verify accuracy of number of reported FTE; Perform data entry, print and send invoices to businesses in the program; and Assist businesses in the program meeting the Charter-mandated deadline of May 1st for payment of invoices	3%	Compliance and Auditing #6
Charter Mandate – Article VIII, Section 8.1: Toxics Board: Enforce reporting requirements and impose penalties for noncompliance	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #7
Charter Mandate – Article VIII, Section 8.2.E: City Manager: Order non-complying repeat offenders to cease and desist using hazardous substances in the City of Eugene	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #8
Charter Mandate – Article VIII, Section 8.3: Members of the Public: Petition the Toxics Board against hazardous substance users or persons for failure to comply with the Charter Amendment	Percentage of staff time is currently zero because historically, this situation has not occurred; however, if it were to occur, staff time would need to be reallocated accordingly to manage the process	<1%	Compliance and Auditing #9
Charter Mandate – Article V, Section 5.1.C and Article VI, Section 6.2.A: Toxics Board: Provide forms for hazardous materials balance reports to be filed electronically that are compatible with the Eugene Public Library's computer systems	Percentage of staff time is currently zero because online data entry system for hazardous materials balance reports has been developed and implemented	<1%	Program Management #1
Necessary to Support Charter Amendment	Facilitate process to assist Toxics Board provide forms for hazardous materials balance reports to be filed electronically that are compatible with the Eugene Public Library's computer systems; and work with	9%	Program Management #1

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
	Information Technology staff to build or purchase a more efficient records and data management program/system		
Necessary to Support Charter Amendment	Collaborate with other City staff and community organizations on relevant citywide projects and processes (e.g.: participate as a member of the Lane County Local Emergency Planning Committee (LEPC); participate in the Envision Eugene planning process)	1%	Program Management #2
Charter Mandate – Article V, Section 5.1.F: Toxics Board: Make hazardous materials balance reports available at the Eugene Public Library for seven years	Facilitate process to assist Toxics Board make hazardous materials balance reports available at the Eugene Public Library	1%	Program Management #3
Charter Mandate – Article VI, Section 6.2.B.3: Toxics Board: File an annual report on the effectiveness of the program, and any recommendations for improvements	Facilitate process to help Toxics Board file an annual report on the effectiveness of the program, and any recommendations for improvements: including preparing draft report for Toxics Board review, edits and approval, and submitting to City Council on the Toxics Board's behalf	1%	Program Management #4
Necessary to Support Charter Amendment	Monitor applicable Federal regulatory program websites and state program databases to keep related local program information current and accurate	1%	Program Management #5
Necessary to Support Charter Amendment	Conduct inventory processes to identify covered entities, and implement processes and procedures to proactively identify covered entities in the future because with each business that is successfully identified, it extends the financial burden across industry more fairly and equitably and lowers the cost per full-time equivalent (FTE) employee and the cost to smaller businesses	13%	Program Management #6
Necessary to Support Charter Amendment	Facilitate Toxics Board meetings and completion of projects and processes to ensure compliance with the Charter Amendment (including Toxics Board meeting preparation, attendance and follow-up); and Conduct ongoing continuous improvement program and process analyses, and make recommendations to Toxics Board for improvements as necessary	6% 6%	Program Management #7 Board Support #3
Charter Mandate – Article VI, Section 6.1: City Council: Appoint Toxics Board members	Facilitate process to ensure Toxics Board members are appointed; including filling vacancies on the Toxics Board due to mid-term resignations; Prepare and submit necessary paperwork and attend City Council Public Hearings and Meetings for new Toxics Board member candidate interviews and appointments	3%	Board Support #1
Charter Mandate – Article X, Section 10: City Council: Enact reasonable ordinances necessary and proper for carrying into execution the provisions of the Charter	Facilitate process to assist City Council enact reasonable ordinances necessary for carrying into execution the provisions of the Charter Amendment upon recommendation of the Toxics Board (not already specifically shown above)	1%	Board Support #2

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
Amendment upon recommendation of the Toxics Board			
Necessary to Support Charter Amendment	Facilitate process to assist the Toxics Board recommend and the City Manager conduct Administrative Rule processes for updates to the Hazardous Substance Tracking Instructions and List of Reportable Chemicals; and Publish and distribute Hazardous Substance Tracking Instructions and List of Reportable Chemicals to reporting businesses in the program; publish corresponding Citizen Guide	1%	Board Support #4
	TOTAL APPROXIMATE % OF STAFF TIME	90%	

Eugene Toxics Right-to-Know Program
Fee History

Eugene City Charter, Section 54, Amendment IV adopted 11/96

Fiscal Year 1997 and Fiscal Year 1998 – The program was supported by the City of Eugene's General Fund in accordance with the Eugene City Charter, Section 54, Amendment IV, Article VII, Section 7(D).

Beginning spring 1998, fees charged in the spring of a calendar year supported the program for the upcoming fiscal year. This continues to be the case.

1998 fee -- $500/facility + $16.12/FTE (Charged to reporting businesses)
1999 fee -- $500/facility + $7.92/FTE (Charged to reporting businesses)

Due to the 05/05/99 Oregon Court of Appeals decision that the City had been assessing fees based on quantity all fees paid in1998 and 1999 fees were refunded. To keep the voter-approved Charter Amendment in force, the City was required to create – and assess fees to – an additional class of businesses that did not meet the 2,640-pound reporting threshold but did meet the other three criteria to be considered hazardous substance users. This class of businesses are categorized as non-reporting businesses under the program. Therefore, starting in the year 2000, fees have been assessed to both reporting and non-reporting businesses.

2000 fee -- $14.310/FTE
2001 fee -- $12.540/FTE
2002 fee -- $10.790/FTE
2003 fee -- $13.920/FTE

State-imposed fee cap of $2,000 per facility took effect 7/1/03 (ORS 453.370(2)(b)).

2004 fee -- $31.650/FTE up to $2,000
2005 fee -- $30.940/FTE up to $2,000
2006 fee -- $31.300/FTE up to $2,000
2007 fee -- $37.380/FTE up to $2,000
2008 fee -- $46.200/FTE up to $2,000
2009 fee -- $52.380/FTE up to $2,000
2010 fee -- $55.480/FTE up to $2,000
2011 fee -- $53.340/FTE up to $2,000
2012 fee -- $79.000/FTE up to $2,000
2013 fee -- $82.690/FTE up to $2,000
2014 fee -- $56.750/FTE up to $2,000
2015 fee -- $56.080/FTE up to $2,000
2016 fee -- $48.290/FTE up to $2,000
2017 fee -- $63.120/FTE up to $2,000
2018 fee -- $65.430/FTE up to $2,000
(proposed) 2019 fee -- $62.230/FTE up to $2,000

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: An Ordinance Concerning Unlawful Transfer on Vehicular Portion of Right-of-Way, Adding Section 5.170 to the Eugene Code, 1971, and Amending Section 5.990 of that Code.

Meeting Date: April 15, 2019
Department: Police Department
www.eugene-or.gov

Agenda Item Number: 4
Staff Contact: Lieutenant Jennifer Bills
Contact Telephone Number: 541-682-5820

ISSUE STATEMENT

The City Council is scheduled for a public hearing on an ordinance prohibiting drivers and passengers in vehicles from passing items to pedestrians unless the vehicle is legally parked. The ordinance that is the subject of the public hearing will add a new section (5.170) to Chapter 5 of the City's Code and amend section 5.990 of the code to provide a maximum fine of $50 for the offense.

BACKGROUND

On April 4, 2016, the City of Springfield adopted code section 6.112, Unlawful Transfer on Vehicular Portion of the Right-of-Way to Ordinance. At council's January 14, 2019, work session, the maker of the motion to schedule a public hearing on an ordinance that mirrors Springfield's ordinance stated that he was making the motion in response to overwhelming constituent input, that he was bringing it up as a safety issue, that it has been successful in Springfield at "keeping people safe in the roadways and medians," and because he wanted to hear from the public about it.

On February 19, 2019, City Council held a public hearing on the issue. Of the 37 people who spoke, 10 spoke in favor of the ordinance and 17 spoke in opposition.

PREVIOUS COUNCIL DIRECTION

January 14, 2019, Work Session

Move to direct the City Manager to prepare an ordinance that mirror's Springfield Municipal Code section 6.112 Unlawful Transfer on Vehicular Portion of the Right-of-Way and schedule a Public Hearing. *(Motion passed 6-2)*

February 19, 2019, Public Hearing

COUNCIL OPTIONS

1. Adopt the ordinance as proposed.
2. Adopt the ordinance with modifications as determined by the City Council.
3. Take no action on the ordinance.

MOTION

Move to adopt Council Bill 5203, an Ordinance Concerning Unlawful Transfer on Vehicular Portion of Right-of-Way, Adding Section 5.170 to the Eugene Code, 1971, and Amending Section 5.990 of that Code.

ATTACHMENTS

A. Ordinance on Unlawful Transfer on Vehicular Portion of the Right-of-Way

FOR MORE INFORMATION

Staff Contact: Lieutenant Jennifer Bills
Telephone: 541-682-5820
Staff E-Mail: jbills@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING UNLAWFUL TRANSFER ON VEHICULAR PORTION OF RIGHT-OF-WAY, ADDING SECTION 5.170 TO THE EUGENE CODE, 1971, AND AMENDING SECTION 5.990 OF THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.170 of the Eugene Code, 1971, is added to provide as follows:

5.170 ***Unlawful Transfer on Vehicular Portion of the Right-of-Way. Unless the vehicle is legally parked, no person, while a driver or a passenger in a vehicle, may give or relinquish possession or control of, or allow another person in the vehicle to give or relinquish possession or control of, any item of property to a pedestrian.***

Section 2. Section 5.990 of the Eugene Code, 1971, is amended by adding subsection (7) to provide as follows:

5.990 **Penalties - Specific**.
(7) Violation of Section 5.170 is punishable by fine not to exceed $50.

Section 3. 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 _____, 2019

_____
City Recorder

Approved by the Mayor this

____ day of _____, 2019

_____
Mayor