

ORDINANCE NO. 4922

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO TITLE 7, ADDING A NEW SECTION ENTITLED “7.04.035 CHAPTER 7.105 RCW ENTITLED “CIVIL PROTECTION ORDERS” – ADOPTION BY REFERENCE” AND AMENDING SECTIONS 7.00.010, 7.04.060, 7.04.100 AND 7.04.130 OF THE ELLENSBURG CITY CODE.

WHEREAS, the city of Ellensburg has broad powers to maintain and protect the health, safety and welfare of its citizens; and

WHEREAS, Ellensburg City Code regarding adoption of criminal laws codified in state law has not been updated since 2007 and the State legislature has since made several changes to laws; and

WHEREAS, the City Council has determined that the criminal codes adopted by the City must be updated to reflect the changes to the state statutes;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington does hereby ordain as follows:

Section 1. Section 7.00.010 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4438, is hereby amended to read as follows:

A. This title shall be known and may be cited as the “Ellensburg criminal code.”

B. As used in this title, “RCW” shall mean the Revised Code of Washington.

C. As used in this title, “ECC” shall mean the Ellensburg City Code.

D. If any chapter, section, subsection, sentence, or provision of this title or its application to any person or circumstance is held invalid, the remainder of this title, or the application of the chapter, section, subsection, sentence, or provision to other persons or circumstances is not affected, and to this end, the chapters, sections, subsections, sentences and provisions of this title are declared to be severable.

E. By adopting Washington State statutes by reference in this title, the city intends to assume jurisdiction over and become the jurisdictional authority for the enforcement and prosecution of misdemeanor and gross misdemeanor crimes committed within the city of Ellensburg. Whenever the word “state” shall appear in any statute adopted by reference in this title, the word “city” shall be substituted therefor; provided, however, the term “city” shall not be substituted for the term “state” in those circumstances that set forth administrative or licensing duties of the state and its subdivisions.

F. Whenever a state statute specifically adopted in this title refers to another state statute not specifically adopted in this title, the statute referred to shall be given the force and effect necessary to enforce the statute specifically adopted in this title.

G. Any state statute that is adopted by reference in this title and which is later amended, repealed, or recodified shall remain in full force and effect until the effective date of the legislative act that repeals, recodifies, or amends the state statute. The amendment or recodification of any state statute adopted by reference in this title shall retain its full force and effect as part of this title subsequent to the effective date of its amendment or recodification.

H. When issuing a citation, information, or complaint for the violation of any section of the RCW adopted by this title, it shall be sufficient for a commissioned officer or prosecutor to cite and refer to the RCW section number.

I. Title, chapter, section and subsection captions are for organizational purposes only and shall not be construed as part of this title.

J. The provisions of this title do not apply to or govern the construction of or punishment of any offense committed prior to the effective date of the ordinance codified in this title or to the construction and application of any defense to a prosecution for such offense. Such an offense shall be construed and punished according to the provisions of the law existing at the time of the commission of the offense in the same manner as if this title had not been enacted.

K. As used in this title, words used in the present tense include the future tense; the masculine includes the feminine and neutral genders; and the singular includes the plural and vice versa.

L. The provisions of this title are intended to create a duty to the public in general and not to create any duty to individuals or to any particular class of individuals. These provisions are not for the protection of any person or class of persons.

M. Unless otherwise provided in this title, violation of any provision of this title shall be punishable by:

1. Gross Misdemeanor. Every person convicted of a gross misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than ~~one year~~ 364 days, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.

2. Misdemeanor. Every person convicted of a misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine. [Ord. 4438 § 2, 2006.]

Section 2. A new section entitled “7.04.035 Chapter 7.105 RCW, entitled “Civil Protection Orders” – Adoption by reference” is hereby added to the Ellensburg City Code to read as follows:

7.04.035 Chapter 7.105 RCW. Civil Protection Orders.

For purposes of offenses under this title only, the following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

VIOLATIONS AND ENFORCEMENT

RCW

7.105.450 Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.

7.105.455 Enforcement and penalties—Antiharassment protection orders.

7.105.460 Enforcement and penalties—Extreme risk protection orders—False petitions.

7.105.465 Enforcement and penalties—Knowledge of order.

7.105.470 Enforcement—Prosecutor assistance.

Section 3. Section 7.04.060 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4438, is hereby amended to read as follows:

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

HARASSMENT

RCW

~~10.14.120 Disobedience of order—Penalties.~~

~~10.14.170 Criminal penalty.~~

WARRANTS AND ARRESTS

RCW

10.31.030 Service – How – Warrant not in possession, procedure – Bail.

10.31.040 Officer may break and enter.

10.31.050 Officer may use force.

10.31.060 Arrest by telegraph or teletype.

10.31.100 Arrest without warrant.

DOMESTIC VIOLENCE – OFFICIAL RESPONSE

RCW

10.99.010 Purpose – Intent.

10.99.020 Definitions.

10.99.030 Law enforcement officers – Training, powers, duties – Domestic violence reports.

10.99.040 Duties of court – No-contact order.

10.99.045 Appearances by defendant – No-contact order.

10.99.050 Victim contact – Restriction, prohibition – Violation, penalties – Written order – Procedures – Notice of change.

10.99.055 Enforcement of orders.

10.99.060 Prosecutor's notice to victim – Description of available procedures.

10.99.070 Liability of peace officers.

[Ord. 4438 § 2, 2006.]

Section 4. Section 7.04.100 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4438, is hereby amended to read as follows:

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

DISSOLUTION OF MARRIAGE – LEGAL SEPARATION

RCW

26.09.300 Restraining orders – Notice – Refusal to comply – Arrest – Penalty – Defense – Peace officers, immunity.

~~NONPARENTAL ACTIONS FOR CHILD CUSTODY~~

RCW

~~26.10.220 Restraining orders – Notice – Refusal to comply – Arrest – Penalty – Defense – Peace officers, immunity.~~

UNIFORM PARENTAGE ACT

RCW

~~26.26.138 Restraining order – Knowing violation – Penalty – Law enforcement immunity.~~

MISCELLANEOUS PARENTAGE ACT PROVISIONS

RCW

26.26B.050 Restraining order – Knowing violation – Penalty – Law enforcement immunity.

AGE OF MAJORITY

RCW

26.28.080 Selling or giving tobacco to minor – Belief of representative capacity, no defense – Penalty.

26.28.085 Applying tattoo to a minor – Penalty.

ABUSE OF CHILDREN

RCW

26.44.015 Limitations of chapter.

26.44.020 Definitions.

26.44.030 Reports – Duty and authority to make – Duty of receiving agency – Duty to notify – Case planning and consultation – Penalty for unauthorized exchange of information – Filing dependency petitions – Interviews of children – Records – Risk assessment process.

26.44.040 Reports – Oral, written – Contents.

26.44.060 Immunity from civil or criminal liability – Confidential communications not violated – Actions against state not affected – False report, penalty.

26.44.063 Temporary restraining order or preliminary injunction – Enforcement – Notice of modification or termination of restraining order.

26.44.067 Temporary restraining order or preliminary injunction – Contents – Notice – Noncompliance – Defense – Penalty.

26.44.080 Violation – penalty.

26.44.150 Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child – Penalty for violating court order.

~~DOMESTIC VIOLENCE PREVENTION~~

~~RCW~~

~~26.50.110 Violation of order—Penalties.~~

~~26.50.140 Peace officers—Immunity.~~

FOREIGN PROTECTION ORDER FULL FAITH AND CREDIT ACT

RCW

26.52.020 Foreign protection orders – Validity.

26.52.050 Peace officer immunity.

26.52.070 Violation of foreign orders – Penalties.

[Ord. 4438 § 2, 2006.]

Section 5. Section 7.04.130 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4463, is hereby amended to read as follows:

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

LEGEND DRUGS – PRESCRIPTION DRUGS

RCW

69.41.010 Definitions.

69.41.030 Sale, delivery, or possession of legend drug without prescription or order prohibited – Exceptions – Penalty.

69.41.050 Labeling requirements – Penalty.

69.41.060 Search and seizure.

69.41.300 Definitions.

69.41.320 Practitioners – Restricted use – Medical records.

69.41.350 Penalties.

PRECURSOR DRUGS

RCW

69.43.010 Report to ~~state board of~~ pharmacy quality assurance commission – List of substances – Modification of list – Identification of purchasers – Report of transactions – Penalties.

69.43.020 Receipt of substance from source outside state – Report – Penalty.

69.43.030 Exemptions.

69.43.035 Suspicious transactions – Report – Penalty.

69.43.040 Reporting form.

69.43.043 Recordkeeping requirements – Penalty.

69.43.048 Reporting and recordkeeping requirements – Submission of computer readable data, copies of federal reports.

69.43.090 Permit to sell, transfer, furnish, or receive substance – Exemptions – Application for permit – Fee – Renewal – Penalty.

69.43.110 Ephedrine, pseudoephedrine, phenylpropanolamine – Sales restrictions – Electronic sales tracking system – Penalty.

69.43.120 Ephedrine, pseudoephedrine, phenylpropanolamine – Possession of more than 45 fifteen grams – Penalty – Exceptions.

69.43.130 Exemptions – Pediatric products – Products exempted by the pharmacy quality assurance commission.

69.43.135 Iodine, methylsulfonylmethane – Sales restrictions – Recording of transaction – Penalty.

UNIFORM CONTROLLED SUBSTANCES ACT

RCW

69.50.101 Definitions.

69.50.102 Drug paraphernalia – Definitions.

69.50.202 Nomenclature.

69.50.204 Schedule I.

69.50.206 Schedule II.

69.50.208 Schedule III.

69.50.210 Schedule IV.

69.50.212 Schedule V.

69.50.401 Prohibited acts: A – Penalties.

69.50.4011 Counterfeit substances – Penalties.

69.50.4013 Possession of controlled substance—Penalty—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery.

69.50.4014 Possession of 40 grams or less of ~~marijuana~~ cannabis – Penalty.

69.50.4016 Provisions not applicable to offenses under RCW 69.50.410.

69.50.404 Penalties under other laws.

69.50.407 Conspiracy.

69.50.408 Second or subsequent offenses.

69.50.412 Prohibited acts: E – Penalties.

69.50.4121 Drug paraphernalia – Selling or giving – Penalty.

~~69.50.425 Misdemeanor violations—Minimum imprisonment.~~

69.50.435 Violations committed in or on certain public places or facilities—Additional penalty—Defenses—Construction—Definitions.

69.50.445 Opening package of or consuming cannabis, useable cannabis, cannabis-infused products, or cannabis concentrates in view of general public or public place—Penalty.

69.50.475 Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty.

69.50.505 Seizure and forfeiture.

69.50.509 Search and seizure of controlled substances.

69.50.560 Controlled purchase programs—Persons under age twenty-one—Violation—Criminal penalty—Exceptions.

~~CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH ACT~~ MEDICAL CANNABIS

RCW

69.51A.005 Purpose and intent.

69.51A.010 Definitions.

~~69.51A.020 Construction of chapter.~~

69.51A.030 Physicians excepted from state's criminal laws. Acts not constituting crimes or unprofessional conduct—Health care professionals not subject to penalties or liabilities.

69.51A.040 Qualifying patients' affirmative defense. Compliance with chapter—Qualifying patients and designated providers not subject to penalties—Law enforcement not subject to liability.

69.51A.043 Failure to enter into the medical cannabis authorization database—Affirmative defense.

69.51A.045 Possession of plants, cannabis concentrates, useable cannabis, or cannabis-infused products exceeding lawful amount—Affirmative defense.

69.51A.050 Medical ~~marijuana~~ cannabis, lawful possession – State not liable.

69.51A.055 Limitations of chapter—Persons under supervision.

69.51A.060 Crimes – Limitations of chapter.

69.51A.070 ~~Addition of medical conditions.~~

69.51A.260 Housing unit—No more than fifteen plants may be grown or located—Exception—Civil penalties.


[Ord. 4463 § 5, 2007; Ord. 4438 § 2, 2006.]

Section 6. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 7. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective Date. Sections 1 through 4 of this ordinance shall take effect and be in force five (5) days after its passage, approval and publication. Section 5 of this ordinance shall take effect and be in force on August 15, 2023.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 7th day of August, 2023.


MAYOR

ATTEST:

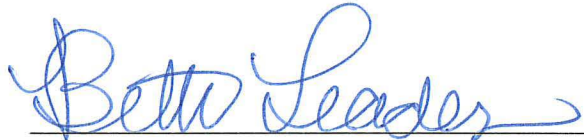

CITY CLERK

Approved as to form:


CITY ATTORNEY

Publish: 8-10-23

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4922 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4922 was published as required by law.


BETH LEADER