BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 910

An ordinance adopting a new code of ordinances for Multnomah County; revising, amending, restating, codifying and repealing existing Multnomah County Code provisions and certain general ordinances; and declaring an emergency.

Multnomah County ordains as follows:

Section 1: The Multnomah County Code and general ordinances as revised, amended, restated, codified and compiled in book form as the Multnomah County, Oregon Code of Ordinances, Volume I (Code) and attached as Exhibit A are enacted as the general and permanent law of Multnomah County.

Section 2: The Code enacted in Section 1 shall consist of the following Chapters:

1. General Provisions
3. Board of Commissioners
5. Elections
7. Administration
9. County Employment
11. Revenue and Taxation
13. Animal Control
15. Sheriff

17. Juvenile and Adult Justice

19. Library

21. Health

23. Community and Family Services

25. Aging and Disability Services

27. Environment and Property

29. Building Regulations

Section 3. All prior ordinances relating to the subjects in this Code are repealed from the effective date of this ordinance, except as they are included and reenacted in whole or in part in the Code. This repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance. This repeal shall not affect the provisions of ordinances levying taxes, appropriating money, establishing franchises, authorizing issuance of bonds or borrowing money, authorizing the purchase or sale of real or personal property, or granting or accepting easements or other interests in real property. This repeal shall not affect any other ordinance of special nature or pertaining to subject not contained in or covered by the Code.

Section 4: The Code shall be presumptive evidence in all courts and places of the ordinances and all provisions, sections, penalties and regulations contained therein, and of the date of enactment. The Code

also shall be presumptive evidence that it has been properly enacted, signed, attested and published, and that all public notices and hearings requirements have been met.

Section 5: An emergency is declared to exist because it is necessary and in the public interest that the Code take effect as soon as possible at the beginning of the next fiscal year. This ordinance shall take effect at 12:01 a.m. on July 1, 1998.

FIRST READING: May 28, 1998

SECOND READING AND ENACTMENT: June 25, 1998

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

for Beverly Stein, Chair
Multnomah County, Oregon

REVIEWED:

COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

Thomas Sponsler, County Counsel

DATA\SPONSLER\CCORD\TSVERSION

MULTNOMAH COUNTY, OREGON

CODE OF ORDINANCES

VOLUME I

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MULTNOMAH COUNTY
CODE OF ORDINANCES
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§ 1.001 TITLE OF CODE.

All ordinances included in this and the following chapters are designated the Multnomah County Code of Ordinances, and will be referred to as "code." When referring to specific sections of the Multnomah County Code, the letters "MCC" shall precede the numerical designation.

§ 1.002 DEFINITIONS AND RULES OF CONSTRUCTION.

The following definitions and rules of construction shall be observed, unless inconsistent with the intent of the Board of Commissioners or the context clearly requires otherwise.

ADMINISTRATIVE RULE. A rule made by a Director with authority delegated by either the Chair or the Board.

BOARD. The Board of Commissioners of Multnomah County.

CHAIR. The Chair of the Board of Commissioners of Multnomah County, chief executive officer and county personnel officer, or designee.

CHARTER. The Home Rule Charter adopted by the voters of Multnomah County.

COMMISSIONER. One of five elected members of the Board.

COMPUTATION OF TIME. The time within which an act is to be done is computed by excluding the first day and including the last, unless the last falls on a legal holiday as defined in ORS 187.010 or 187.020, or on a Saturday or Sunday, in which case the last day is also excluded.

COUNTY. Multnomah County, Oregon.

COUNTY COUNSEL. The Chief Legal Officer and Office of County Counsel Director, or designee.

DAY. The period of time between any midnight and the midnight following.

DAYTIME; NIGHTTIME. ***DAYTIME*** is the period between sunrise and sunset. ***NIGHTTIME*** is the period of time between sunset and sunrise.

DEPARTMENT. A county administrative unit established and assigned functions by ordinance.

DIRECTOR. The head of a department appointed by the Chair with the consent of the Board, or designee.

EXECUTIVE RULE. A rule made by the Chair with authority from the Charter or delegated by the Board.

GENDER. The masculine gender includes the feminine and neuter, and the feminine includes the masculine and neuter.

JOINT AUTHORITY. Words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

LAW. Applicable federal law, the constitution and statutes of the state of Oregon, the code, ordinances, resolutions, and applicable adopted rules and regulations of the county.

MINOR. A person under the age of 18 years, unless otherwise stated.

MONTH. A calendar month.

NUMBER. The singular number includes the plural, and the plural the singular.

OAR. Oregon Administrative Rule.

OATH. Includes affirmation.

OFFICIAL TIME. When certain hours are named, they mean the standard of time as set out in ORS 187.110.

OR; AND. ***OR*** may be read ***AND***, and ***AND*** may be read ***OR***, if the sense requires it.

ORDER. A final determination of the Board in a particular case, usually a quasi-judicial matter under authority of state law.

ORDINANCE. A Board exercise of legislative authority granted by the Charter and state law.

ORS. Oregon Revised Statutes.

OWNER. A part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of the building or land, or vendee in possession under a land sale contract.

PERSON. Individual, corporation, association, firm, partnership, joint stock company, and similar entities.

PERSONAL PROPERTY. Every type of property, except real property as defined in this section.

POLICY. A county policy enacted by ordinance or adopted by resolution.

PRECEDING; FOLLOWING. Next before and next after, respectively.

PROCESS. A writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

PROPERTY. Both real and personal property.

REAL PROPERTY. Land, tenements, and hereditaments.

RESOLUTION. A Board exercise of administrative authority granted by the Charter and state law, or authorized by ordinance.

SHALL; MAY. ***SHALL*** is mandatory, and ***MAY*** is permissive.

SHERIFF. The Sheriff of Multnomah County, or designee.

SIGNATURE. Includes subscription or mark when the signer cannot write, the signer's name being written near the mark by a witness who signs near the signer's name. A signature by subscription or mark as acknowledged serves as a signature to a sworn statement only when two witnesses sign their own names.

STATE. The state of Oregon.

TENANT or ***OCCUPANT.*** A person holding a written or an oral lease of, or who occupies, the whole or a part of the building or land, either alone or with others.

TENSES. The present tense includes the past and future tenses, and the future includes the present.

TO. Means *TO AND INCLUDING* when used in reference to a series of sections of this code or the ORS.

WEEK. Seven consecutive days.

WRITING. Includes any form of recorded message capable of comprehension by ordinary visual means. When a notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

YEAR. A calendar year, except where otherwise provided.

§ 1.003 SUBSTITUTE OFFICERS.

Unless this code provides to the contrary, the Chair, County Counsel and department directors, or designees or agents, may exercise a power granted by this code. The Chair, County Counsel and department directors remain responsible for the performance of such acts.

§ 1.004 CONSTRUCTION OF CODE.

The provisions of this code and proceedings under it are to be construed so as to effect its objectives and to promote justice.

§ 1.005 CONTINUATION OF ORDINANCES.

Provisions of this code that are the same as those of the prior code sections existing at the time of the effective date of this code shall be considered continuations and not new enactments.

§ 1.006 EFFECT OF REPEAL.

The repeal of the prior code does not revive any ordinance in force before or at the time the prior code took effect. The repeal of the prior code does not affect a penalty incurred before the repeal took effect, nor a legal action pending at the time of the repeal.

§ 1.007 SEVERABILITY.

The sections, subsections, paragraphs, provisions, clauses, phrases, and words of this code are severable. If a section, subsection, paragraph, provision, clause, phrase, or word of this code is declared by a court of competent jurisdiction to be unconstitutional or invalid, the judgment shall not affect the validity of the remaining portions of this code. Every other section, subsection, paragraph, provision, clause, phrase or word of this code enacted, irrespective of the enactment or validity of the portion declared unconstitutional or invalid, is valid.

§ 1.008 SECTION CATCHLINES.

The catchlines of the code sections indicate the contents of each section and are not a part of the substance of the section. The catchlines are not affected by amendments or re-enactments.

§ 1.009 AMENDMENT AND REPEAL.

(A) This code is the general and permanent law of the county. The Board of Commissioners may enact three types of general ordinances to affect this code, as described in division (B) of this section.

(B) Ordinances may amend existing provisions, add new provisions, or repeal existing provisions. General ordinances shall specifically amend or repeal particular sections of this code. General ordinances creating new code sections shall integrate the new sections into the numbering system and organization of this code.

§ 1.010 REPEAL OF FORMER CODE.

The Multnomah County Code enacted in 1990, as supplemented, is repealed.

§ 1.011 EDITORIAL CHANGES.

The County Counsel is empowered to make certain editorial changes and corrections in this code, provided such changes do not alter the sense, meaning, effect, or substance of any ordinance. Changes and corrections may include the following:

(A) Numbering and renumbering sections and parts of sections of ordinances, either as enacted or as codified;

(B) Changes in the wording of headnotes or catchlines;

(C) Rearrangements of sections;

(D) Changes of reference numbers to agree with renumbered chapters, sections and statutes;

(E) Substitutions of the proper subsection, section, chapter, or other division numbers;

(F) Omission of figures or words which are merely repetitious;

(G) Changes of capitalization and punctuation for purposes of uniformity; and

(H) Correction of manifest clerical or typographical errors.

§ 1.012 CERTIFICATION OF CODE REVISIONS.

County Counsel shall certify each revision of this code as being an accurate codification of the ordinances contained in that revision.
('90 Code § 1.20.300) (Ord. 169, passed 1978)

CHAPTER 3: BOARD OF COMMISSIONERS

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Consolidation, see ORS 199.705
County governing bodies; home rule, see ORS, Ch. 203
Government standards and practices, see ORS, Ch. 244
Initiative and referendum, see ORS, Ch. 250

GENERAL PROVISIONS

§ 3.001 PROCEDURES ADOPTED BY REFERENCE.

(A) All elected officials of the county, and employees under the supervision of elected county officials, shall comply with the Multnomah County Administrative Procedures on approval of personal service agreements, and on distinguishing between employees and independent contractors, which are hereby adopted by reference.

(B) All elected officials of the county, and employees under the supervision of elected county officials, shall comply with the Multnomah County Administrative Procedures on elected officials'

automobile expense, travel expense reimbursements and miscellaneous expense reimbursement policy, which are hereby adopted by reference.
('90 Code § 2.30.850) (Ord. 470, passed 1985; Ord., passed 1986)

§ 3.002 COMPENSATION.

The compensation for elected officials shall be as set by the Board from time to time.
('90 Code § 2.30.810)
Statutory reference:
Public officials; ethics, see ORS 244

CONTRACT REVIEW BOARD

§ 3.100 LOCAL CONTRACT REVIEW BOARD.

The Board shall be the local contract review board for the county. It shall have all the powers granted by state law, and may adopt rules by Board resolution.
('90 Code § 2.20.250) (Ord. 117, passed 1975; Ord. 268, passed 1981; Ord. 289, passed 1981; Ord. 518, passed 1986; Ord. 807, passed 1994; Ord. 861, passed 1996; Ord. 875, passed 1997)

§ 3.101 LEGISLATIVE STAFF.

The Board may employ and fix the compensation of persons it considers necessary for the conduct of its legislative function. The persons employed shall constitute and be designated the legislative staff of the county.
('90 Code § 2.20.500) (Ord. 38, passed 1970)

§ 3.102 ADMINISTRATIVE INFORMATION.

In exercising its legislative function, the Board may direct administrative officers and employees of the county to furnish information about the operation of the county directly to the Board or to one of its members or legislative staff.
('90 Code § 2.20.510) (Ord. 38, passed 1970)

§ 3.103 BOARD RULES REGARDING STAFF.

The Board may adopt such rules as it considers necessary to govern the qualification, hiring, discharge and functions of legislative staff members.
('90 Code § 2.20.520) (Ord. 38, passed 1970)

§ 3.104 EXPENSES OF BOARD AND LEGISLATIVE STAFF.

The budget of the county each year may provide a sum of money allocated to the Board for the purpose of paying Board expenses, including salaries, wages and expenses of the legislative staff.
('90 Code § 2.20.530) (Ord. 38, passed 1970)

CITIZEN INVOLVEMENT COMMITTEE

§ 3.250 PURPOSE AND AUTHORITY.

(A) *Generally.* The Charter amendment relating to citizen involvement was adopted by the people of Multnomah County on November 6, 1984. That provision of the Charter stipulates:

CITIZEN INVOLVEMENT PROGRAM

> The office of citizen involvement is hereby established. The office of citizen involvement shall develop and maintain citizen involvement programs and procedures designed for the purpose of facilitating direct communication between the citizens and the board of county commissioners.

A citizens' committee and the structure of the citizen involvement process shall be established by ordinance.

The board of county commissioners shall appropriate sufficient funds for the operation of the office and the committee.

The citizens' committee shall have the authority to hire and fire its staff.

(B) The purpose of this section is to enact the requirements of the above-quoted charter provision. ('90 Code § 2.30.640(A), (B)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996; Ord. 886, passed 1997)

Cross-reference:

Citizen Involvement Committee, see Charter § 3.75

§ 3.251 COMMITTEE ESTABLISHED; MEMBERSHIP.

(A) There is established a Citizen Involvement Committee.

(B) The Citizen Involvement Committee shall be composed of 15 members to be appointed by the Board.

(1) The Board shall appoint 25 members: three members residing in each of the four commission districts and three county residents at large.

(2) Members appointed according to commission district shall be nominated by neighborhood and community associations, neighborhood coalitions and community groups within the respective commission district. The three at-large members shall be nominated by incorporated community organizations.

(C) The Office of Citizen Involvement shall communicate with various organizations to encourage a wide variety of volunteers. The Citizen Involvement Committee should reflect the diversity of the population of the county. An affirmative action report shall be included in the annual report.

(D) The terms of the committee members shall be for three years with a maximum of six consecutive years, regardless of nominating agency. Members may apply for reappointment to the committee after a hiatus of one full chronological year, beginning from the end date of their last full term. A term commences upon appointment.

(E) The Office of Citizen Involvement shall notify nominating groups when there is a vacancy for which they have nomination responsibility. The Office of Citizen Involvement shall receive nominations, and the Citizen Involvement Committee shall forward nominations to the Board for appointment.

('90 Code § 2.30.640(C)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996; Ord. 886, passed 1997)

§ 3.252 STRUCTURE OF CITIZEN INVOLVEMENT PROCESS.

(A) The functions and responsibilities of the Citizen Involvement Committee within the county's citizen involvement process may include, but not be limited to, the following:

(1) An ongoing study and discussion of the county's priorities, programs, and procedures, including budget preparation and amendment.

(2) Recommendation of an action, a plan, or a policy, to the Board or any department on any matter impacting the life of the county, including, but not limited to the following: health, mental health, parks, corrections, jails, animal control, assessment, taxation, elections, citizen participation, cable television, crime prevention, mediation, and libraries.

(3) A strengthening and encouragement of department advisory boards and budget subcommittees and cooperation with existing boards, subcommittees, and commissions.

(4) Written reports to the Board at least every six months outlining its activities and summarizing its recommendations to the Board. The Board shall respond in writing to the semiannual reports of the Citizen Involvement Committee.

(5) Responsibility for the hiring, supervision, and discharge of its staff as may be necessary to execute functions and responsibilities of the Citizen Involvement Committee. The Citizen Involvement Committee shall act in accordance with county personnel ordinances and regulations.

(6) Election of a chair and adoption of rules or procedures for the operation of the committee.

(7) Review of the size and representation of the committee every five years.

(B) The Citizen Involvement Committee shall abide by the laws regulating open meetings and open access to all information.

(C) The activities and expenditures of the Citizen Involvement Committee shall be conducted in accordance with all applicable federal and state laws and all county ordinances and regulations.
('90 Code § 2.30.640(D)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996; Ord. 886, passed 1997)
Cross-reference:
County employment, see Chapter 9

§ 3.253 OFFICE OF CITIZEN INVOLVEMENT.

(A) There is established an Office of Citizen Involvement which shall, at a minimum, consist of a Director and Secretary. This office shall be adequately funded.

(B) The Office of Citizen Involvement shall develop procedures to perform the following:

(1) Establish and broaden official channels for two-way communication between the citizens and the Board, elected officials, and department directors. Such channels shall provide for both sharing of information from the county regarding the government and its services and the presentation of specific concerns and recommendations by citizens from the several districts of the county.

(2) Schedule yearly reports at a Board meeting regarding activities and plans of the Citizen Involvement Committee.

(3) Increase the number of citizens participating in county government. Recruit a wide variety of volunteers without regard for age, sex, race, creed or sexual orientation.

(4) Maintain an up-to-date file of individuals interested in participating on county boards, commissions, and committees and recommend individuals for appointment to county boards, commissions and committees.

(5) Record minutes of meetings of the Citizen Involvement Committee, including a record of attendance and votes.

(6) Develop and maintain a resource library regarding citizen involvement, including information about past county programs, as well as other data and educational sources.

(7) Develop a budget and keep financial records using established county methods.

(8) Act as liaison with the Office of Neighborhood Associations of the City of Portland, Gresham neighborhood associations, district coalitions, and other cities and community offices.

(9) Aid and educate citizens in the process of citizen involvement.

(10) Carry out the policy directions of the Citizen Involvement Committee.

(C) The Office of Citizen Involvement shall act in accordance with all applicable federal and state laws and county ordinances and regulations.
('90 Code § 2.30.640(E)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996; Ord. 886, passed 1997)

§ 3.254 COOPERATION WITH THE OFFICE OF CITIZEN INVOLVEMENT.

(A) All county officials and their staffs shall cooperate in providing information as requested by the Office of Citizen Involvement.

(B) All county departments and divisions of county government shall cooperate in providing information as requested by the Office of Citizen Involvement.

(C) The Chair shall place Citizen Involvement Committee presentations on the Board's informal or formal agenda annually, or as requested by the Citizen Involvement Committee.
('90 Code § 2.30.640(F)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996; Ord. 886, passed 1997)

BUDGET ADVISORY COMMITTEES

§ 3.300 PURPOSE.

The Board finds that there is a need for the following:

(A) Citizen involvement in the development of the county budget;

(B) Citizen advocacy of budget proposals; and

(C) Better means of informing citizens concerning county budget problems, processes and proposals.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

§ 3.301 COMMITTEES ESTABLISHED.

There are established Citizen Budget Advisory Committees for the Department of Community and Family Services, the Department of Environmental Services, the Department of Juvenile and Adult Community Justice, the Health Department, the Department of Aging and Disability Services, the Department of Support Services, the Sheriff, the District Attorney, the county nondepartmental programs, and the Library. The Library Board shall function as the Library Citizen Budget Advisory Committee and the Community Health Council shall function as the Health Department Citizen Budget Advisory Committee. The Community Health Council and the Library Board shall continue as presently constituted, notwithstanding any conflicting provisions of this subchapter. The Citizen Budget Advisory Committees are charged to act as Advisory Committees to the Board and all county directors, elected officials, and nondepartmental programs. Citizen Budget Advisory Committees will actively participate in county budget development and review, give advice on policy considerations, and participate in operational and strategic planning.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

§ 3.302 MEMBERSHIP.

(A) *Generally.* Each Citizen Budget Advisory Committee shall be composed of seven members appointed by the Chair upon the approval of the Board.

(B) *Membership composition.* The membership of each Citizen Budget Advisory Committee, excepting as provided under division (C) of this section, shall be as follows:

(1) *Position 1.* One citizen nominated by the Citizen Involvement Committee.

(2) *Position 2.* One citizen nominated by the Citizen Involvement Committee.

(3) *Position 3.* One citizen nominated by the Citizen Involvement Committee.

(4) *Position 4.* One citizen nominated by the Citizen Involvement Committee.

(5) *Position 5.* One citizen nominated by the elected official or department director.

(6) *Position 6.* One Citizen Involvement Committee member or one citizen nominated by the Citizen Involvement Committee.

(7) *Position 7.* One citizen nominated by the elected official or department director.

(C) *Membership; nondepartmental programs.* The county nondepartmental programs shall have one Citizen Budget Advisory Committee composed of members nominated to the following positions:

(1) *Position 1.* One citizen nominated by the Chair.

(2) *Position 2.* One citizen nominated by the Board.

(3) *Position 3.* One citizen nominated by the Citizen Involvement Committee.

(4) *Position 4.* One citizen nominated by the Citizen Involvement Committee.

(5) *Position 5.* One citizen nominated by the Citizen Involvement Committee.

(6) *Position 6.* One Citizen Involvement Committee member nominated by the Citizen Involvement Committee.

(7) *Position 7.* One citizen selected from nominations by all other nondepartmental organizations.

(D) *Residency required.* No person shall be considered for nomination to a Citizen Budget Advisory Committee who does not live in the county, except members of the Community Health Council representing professional, civic or community organizations.

(E) *Term.*

(1) Except as provided in division (F)(2) of this section, each member shall be appointed to the position for a term of three years. No person may serve more than two consecutive terms on any Citizen Budget Advisory Committee.

(2) To ensure rotating terms, the following terms shall apply to all initial appointments to Citizen Budget Advisory Committees:

(a) Positions 1, 4, and 7 shall serve three-year terms.

(b) Positions 3 and 6 shall serve two-year terms.

(c) Positions 2 and 5 shall serve one-year terms.

(F) *Vacancies.*

(1) If any Citizen Budget Advisory Committee does not have its full contingent of members as a result of appointments made pursuant to this section, then the Citizen Involvement Committee may nominate citizens for appointment to fill the vacancies in that department's Budget Advisory Committee.

(2) Vacancies on Citizen Budget Advisory Committees can be declared by the Citizen Involvement Committee, upon the written recommendation of the Citizen Budget Advisory Committee, if a member has missed two consecutive meetings or a majority of meetings held within one year. A vacancy on any citizen Budget Advisory Committee shall be filled in accordance with the provisions of division (F)(1) of this section. If a vacancy is not filled within 30 days, the Citizen Involvement Committee may nominate a citizen for appointment to that vacancy.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

§ 3.303 CONFLICT OF INTEREST.

Any member of a Citizen Budget Advisory Committee who has monetary or investment interest in any matter before their Citizen Budget Advisory Committee shall so inform the membership of the Committee. County employees shall not be eligible for membership on a Citizen Budget Advisory Committee.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

§ 3.304 COMPENSATION.

Members shall receive no compensation for serving on a Citizen Budget Advisory Committee.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

§ 3.305 DUTIES.

(A) Each Citizen Budget Advisory Committee shall elect its own chair by the second meeting in each fiscal year.

(B) All meetings shall be held in accordance with the Oregon Open Meetings Law.

(C) Each Citizen Budget Advisory Committee shall take minutes of its meetings and provide copies of these minutes to each of its members, the elected official or department director, and to the Office of Citizen Involvement. Each Citizen Budget Advisory Committee shall meet the requirements of the Oregon Public Records Law.

(D) Each department director, the District Attorney, and the Sheriff will be responsible to assign technical and clerical support for Citizen Budget Advisory Committees. The non-departmental Citizen Budget Advisory Committee shall receive technical and clerical support from the Board or the Office of Citizen Involvement.

(E) Any variations from the stipulations of this subchapter shall be approved by the Citizen Involvement Committee in writing.

(F) The chair of each Citizen Budget Advisory Committee shall report the findings of the Citizen Budget Advisory Committee to the Chair, the elected officials or department directors, and to the Office of Citizen Involvement by the dates designated in the budget processes, and to the Board and the public during the budget hearing process.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

§ 3.306 CENTRAL CITIZEN BUDGET ADVISORY COMMITTEE.

(A) Each Citizen Budget Advisory Committee shall select one of its members to serve on the Central Citizen Budget Advisory Committee.

(B) Appointments to the Central Citizen Budget Advisory Committee will be for one year.

(C) The Citizen Involvement Committee shall appoint a member at large who will be designated Chair of the Central Citizen Budget Advisory Committee.

(D) The Central Citizen Budget Advisory Committee shall be a steering committee for the Budget Advisory Committees; shall be responsible for coordinating all deadlines, reports and activities of the Citizen Budget Advisory Committee process; shall provide training for Citizen Budget Advisory Committee members; and shall produce a report of its recommendations to the Chair, the Board and the public.

(E) The Central Citizen Budget Advisory Committee shall respond to the concerns of the Citizen Budget Advisory Committees and may reflect the concerns of the public at large.

(F) The Central Citizen Budget Advisory Committee is charged with making county-wide recommendations to the Chair, the Board and the public, which may cross departmental lines and affect one or more departments.

(G) The Central Citizen Budget Advisory Committee will receive technical assistance and clerical support from the Citizen Involvement Committee.
('90 Code § 2.30.640(G)) (Ord. 449, passed 1984; Ord. 490, passed 1986; Ord. 491, passed 1986; Ord. 526, passed 1986; Ord. 571, passed 1988; Ord. 662, passed 1990; Ord. 664, passed 1990; Ord. 695, passed 1991; Ord. 835, passed 1995; Ord. 863, passed 1996)

PUBLIC SAFETY COORDINATING COUNCIL

§ 3.350 MEMBERSHIP.

The council membership shall include, but need not be limited to the following:

(A) A police chief selected by the police chiefs in the county;

(B) The Sheriff;

(C) The District Attorney;

(D) A state court judge, and a public defender or defense attorney, both appointed by the presiding judge in the county;

(E) A Director of Juvenile and Adult Community Justice, a Board member, a health or mental health director and at least one lay citizen, all appointed by the Board;

(F) A city councilor or mayor, and a city manager or other city representative, both selected by the cities in the county; and

(G) A representative of the Oregon State Police, who is a nonvoting member of the council, selected by the superintendent of state police.
('90 Code § 2.30.875) (Ord. 839, passed 1995)

§ 3.351 DUTIES.

The council shall perform the following functions:

(A) Develop and recommend to the Board a plan for the use of the following:

(1) State resources to serve the local adult and youth offender populations;

(2) State and local resources to serve the needs of that part of the local offender population who are at least 15 years of age and less than 18 years of age, which plan must provide for coordination of community-wide services involving prevention, treatment, education, employment resources and intervention strategies; and

(3) Coordinate local criminal justice policy among affected criminal justice entities.

(B) In consultation with the County Commission on Children and Families, develop and recommend to the Board a plan designed to prevent criminal involvement by youth. The plan must provide for coordination of community-wide services involving treatment, education, employment resources and intervention strategies aimed at crime prevention.

(C) Coordinate local juvenile justice policy among affected juvenile justice entities.
('90 Code § 2.30.870) (Ord. 839, passed 1995)

OREGON BUSINESS DEVELOPMENT FUND PROJECTS

§ 3.600 APPLICATION.

(A) Any request for county approval of an Oregon Business Development Land Fund (OBDF) application, pursuant to ORS 285.413, shall be filed with the director on a project summary form provided by the director and accompanied by a completed state application.

(B) Processing of an application shall not commence until all information required by this subchapter is provided.

(C) The director shall prepare a written recommendation with findings on the application, and approval criteria as set forth in § 3.603, within 20 working days of the receipt of the completed application.

(D) The staff shall review the application for conformance with all applicable criteria. The staff shall consult with all appropriate county departments, other governmental units, and the Economic Development Advisory Commission OBDF subcommittee in determining such conformance, and shall prepare a staff report and recommendation concerning the application.

(E) Prior to completion of a staff report, one or more application conferences, as determined by the director, may be held with the applicant. The director may request attendance at such conferences by representatives of government agencies having an interest in the project and the Economic Development Advisory Commission OBDF subcommittee.

(F) The staff report shall identify the applicable approval criteria, state the findings relied on in reaching a recommendation, and explain the justification for the recommendation, based on the facts and approval criteria.

(G) The staff shall submit the staff report and recommendation to the director.

(H) The director shall file the application, staff recommendation and findings report with the Clerk of the Board within 20 working days of receipt of the completed application.

(I) A copy of the staff report shall be available at the division of planning and development, and mailed to the applicant no less than seven days prior to the date of the hearing before the Board.

(J) The clerk of the Board shall place the staff recommendation on the agenda for the next Board meeting for which notice may be given as required by law.
('90 Code § 11.08.520) (Ord. 408, passed 1983)

§ 3.601 NOTICE OF HEARING.

(A) Notice of a public hearing before the Board concerning an Oregon Business Development Fund application shall be mailed at least seven days prior to the hearing, to the applicant and other persons having an interest in the application, as determined by the director.

(B) In addition to the mailed notice, there shall also be published a notice of hearing on the application at least once in a daily newspaper having general circulation in excess of 50,000 in the county, not less than ten days before the hearing.
('90 Code § 11.08.530) (Ord. 408, passed 1983)

§ 3.602 HEARING BY BOARD.

(A) The Board shall conduct a hearing on a recommendation by the director.

(B) Notice of hearing shall be provided as required in § 3.601.

(C) At the hearing, the Board shall first receive a staff report, which shall include a summary of the staff recommendation and findings report. The Board shall next receive testimony from the applicant, the Economic Development Advisory Commission OBDF subcommittee, and by other persons having a substantial interest in the application.

(D) The Board shall announce its decision to approve or deny the application at the conclusion of the hearing or at the hearing to which the matter is continued.

(E) The Board shall express its decision in a written order, which shall be filed with the Clerk of the Board.

(F) Rehearing by the Board shall be allowed, if at all, within ten business days after the decision has been filed with the clerk of the Board. Rehearing shall be allowed only on motion of a Board member who voted with the majority in the initial decision, and shall not be available on motion of an applicant. ('90 Code § 11.08.540) (Ord. 408, passed 1983)

Cross-reference:

Notice of Board meetings, see Charter § 3.50

§ 3.603 CRITERIA FOR APPROVAL.

(A) The project must be on the Oregon Economic Development Department's eligible activity list. Eligible projects are to result in the development, promotion, or facilitation of one or more of the following activities:

(1) Manufacturing or other industrial production;

(2) Agricultural development or food processing;

(3) Aquacultural development or seafood processing;

(4) Development or improved utilization of natural resources;

(5) Convention facilities and trade centers;

(6) Tourist facilities other than retail or food service businesses;

(7) Transportation or freight facilities; and

(8) Other activities representing a new technology or type of economic enterprise that the Oregon Economic Development Commission determines is needed to diversify the economic base of an area, other than office buildings, corporate headquarters, retail businesses, shopping centers, and food service facilities.

(B) An application shall also comply with the Comprehensive Land Use Plan, the Overall Economic Development Plan and applicable plan implementation sections of this code.
('90 Code § 11.08.550) (Ord. 408, passed 1983)

CHAPTER 5: ELECTIONS

Section

Vacancies in Office

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5.003 Vacancy in office
5.004 Filling of vacancy
5.005 Designation of interim Chair, Auditor or Sheriff
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Initiative and Referendum

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Cross-reference:

Elections, see Charter §§ 11.10 through 11.50

Statutory reference:

Conduct of elections, see ORS, Ch. 254

VACANCIES IN OFFICE

§ 5.001 TITLE.

This subchapter shall be known as the county Vacancy in Office Code.
('90 Code § 4.30.005) (Ord. 68, passed 1973)

§ 5.002 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

DIRECTOR. The Director of the Division of Elections of the county, or the authorized representative.

ELECTIVE OFFICE.

(1) The Chair of the Board;

(2) Auditor;

(3) Commissioner; and

(4) Sheriff.

TERM OF OFFICE. The term of office of the last person elected to the office which is vacant.
('90 Code § 4.30.010) (Ord. 68, passed 1973; Ord. 211, passed 1979; Ord. 478, passed 1985)

§ 5.003 VACANCY IN OFFICE.

An elective office of the county shall become vacant:

(A) Upon the incumbent's:

(1) Death;

(2) Adjudicated incompetence;

(3) Conviction of a felony, other offense pertinent to the office, or unlawful destruction of public records;

(4) Resignation from office;

(5) Recall from the office; or

(6) Ceasing to reside within the county, or inability to obtain a corporate surety bond as required under Charter § 4.10(2);

(B) Upon the failure of the person elected or appointed to the office to qualify for it within ten days after the time for the term of office to commence;

(C) In the case of a member of the Board, upon absence:

(1) From the county for 30 consecutive days without the consent of the Board; or

(2) From Board meetings for 60 consecutive days without like consent; or

(D) In the case of the Chair, upon absence from the county for 30 consecutive days without consent of the Board.
('90 Code § 4.30.020) (Ord. 68, passed 1973; Ord. 211, passed 1979; Ord. 478, passed 1985)
Cross-reference:
Board of County Commissioners, see Chapter 3

§ 5.004 FILLING OF VACANCY.

(A) The Board, upon becoming aware of a vacancy in an elective office, shall promptly determine and declare the date of vacancy.

(B) If a vacancy occurs in an elective office of the county and the term of office expires one year or more after the vacancy occurs, then a person shall be elected at the next available election date to fill the vacancy for the remainder of the term of office.

(C) If a vacancy occurs in an elective office of the county and the term of office expires less than one year but 90 days or more after the vacancy occurs, then the Board shall appoint a person to fill the vacancy for the remainder of the term of office.

(D) If a vacancy occurs in an elective office of the county and the term of office expires less than 90 days after the vacancy occurs, the vacancy shall not be filled.
('90 Code § 4.30.030) (Ord. 68, passed 1973; Ord. 211, passed 1979; Ord. 478, passed 1985)

§ 5.005 DESIGNATION OF INTERIM CHAIR, AUDITOR OR SHERIFF.

(A) *Purpose.*

(1) When a vacancy occurs in elective county offices, the Charter provides for filling the vacancy by election or appointment, depending on the time remaining before expiration of the affected term of office (Charter § 4.50(1)).

(2) The Charter recognizes that the Chair, Auditor, and Sheriff perform ongoing, day-to-day administrative responsibilities that should not be interrupted. Accordingly, Charter § 4.50(3) provides that vacancies in these offices should be filled by interim designees, who serve until the vacancy is filled by election or appointment. This section carries out the Charter requirement that the Board prescribe procedures to designate interim occupants of the offices of the Chair, Auditor, and Sheriff. The section parallels a state law (ORS 236.220) by designating the chief deputies of the Chair, Auditor, and Sheriff as their interim successors.

(B) *Process for designating interim Chair, Auditor, or Sheriff.*

(1) The Chair, Auditor, and Sheriff shall each designate a chief deputy for performance of their administrative responsibilities. The designation shall be in writing and filed with the Clerk of the Board.

(2) In the event of a vacancy in the office of Chair, Auditor, or Sheriff, the designated chief deputy shall serve as acting Chair, Auditor, or Sheriff until the vacancy is filled by election or appointment, as appropriate under the Charter.

(3) In the event a chief deputy for the office of Chair, Auditor, or Sheriff has not been designated, or if the designated chief deputy is unable to immediately serve due to absence or illness, the Board shall promptly convene and appoint a person to fill the vacancy on an interim basis. The appointment shall be in writing and filed with the clerk of the Board.
('90 Code § 4.30.035) (Ord. 716, passed 1992)

§ 5.006 APPOINTMENT BY BOARD.

The Board, in filling a vacancy, may make such inquiries and interviews as they consider necessary to select the appointment. The appointment shall be made at a regular or special meeting of the Board.
('90 Code § 4.30.045) (Ord. 478, passed 1985)

§ 5.007 ELECTION TO FILL VACANCY.

If an election is required to fill a vacancy, the Board shall call such an election on the next available election date established by state law, or may call an emergency election if it has been demonstrated that the public interest would be harmed by waiting. The date of the emergency election must allow sufficient time to meet the requirements of § 5.008.
('90 Code § 4.30.055) (Ord. 478, passed 1985; Ord. 881, passed 1997)

§ 5.008 NOMINATION TO FILL VACANCY.

Nomination for election to fill a vacancy shall be made by the petition or declaration method established by state law for the selection of candidates for nomination at a primary election. Such petition or declaration shall be filed with the director not later than the 47th day prior to the date of the election.
('90 Code § 4.30.065) (Ord. 478, passed 1985; Ord. 881, passed 1997)

§ 5.009 SPECIAL RUNOFF ELECTION.

(A) If no candidate receives a majority of votes cast at an election to fill a vacancy, the Board shall call a special runoff election in which the names of the two candidates receiving the highest number of votes shall appear on the ballot.

(B) The special runoff election may be held on the next available election date established by state law or may be an emergency election if it has been demonstrated that the public interest would be harmed by waiting. The special runoff election shall occur not less than 47 days after the date of the election first referred to in division (A) of this section.
('90 Code § 4.30.080) (Ord. 616, passed 1989; Ord. 881, passed 1997)

INITIATIVE AND REFERENDUM

§ 5.100 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY LEGISLATION. Any ordinance which has been or lawfully may be enacted by the county, and any proposed amendment, revision or repeal of the Charter, but does not include any property tax levy, tax base, or bond measure or any emergency ordinance adopted under Chapter V of the Charter.

ELECTOR. Any legal voter of the county.

MEASURE. Any county legislation, or property tax levy, tax base, or bond measure proposed for adoption, amendment, revision, repeal or referral through the initiative or referendum procedures prescribed by this subchapter.

REGULAR ELECTION. Any election at which a measure is submitted to the electors on a biennial primary, presidential preference primary or general election date.

SPECIAL ELECTION. Any election at which a measure is submitted to the electors on a date other than a regular election date.
('90 Code § 4.51.010) (Ord. 167, passed 1978; Ord. 212, passed 1979; Ord. 626, passed 1989; Ord. 881, passed 1997)
Cross-reference:
Initiative and referendum, see Charter § 11.30

§ 5.101 PROSPECTIVE PETITION.

(A) Prior to circulating a petition proposing an initiative or referendum measure among the electors, the chief petitioners shall file a prospective petition with the director, in such form as the director shall prescribe or provide, showing:

(1) The signatures, printed names and mailing addresses of not less than one and not more than three chief petitioners, all of whom must be electors of the county;

(2) In the case of initiative measures, the text of the county legislation proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or ordinance section numbers proposed for amendment, revision or repeal;

(3) In the case of referendum measures, the text of the county legislation proposed for referral, and where applicable, the title, ordinance number or ordinance section numbers of the county legislation proposed for referral; and

(4) Whether one or more persons will be paid for obtaining signatures on the petition.

(B) The director shall inscribe the date of filing upon any prospective petition filed in the director's office.

(C) After a prospective petition for a referendum measure has been filed with the director, and the director has determined that the prospective petition complies with the requirements of this subchapter, and other applicable law, the director shall certify to one of the chief petitioners that petitions for the referendum measure proposed by the prospective petition may be circulated among the electors, in accordance with the procedures set forth in § 5.103.
('90 Code § 4.51.020) (Ord. 167, passed 1978; Ord. 212, passed 1979; Ord. 881, passed 1997)

§ 5.102 BALLOT TITLE; APPEAL.

(A) Prior to the conclusion of the fifth business day after a prospective petition is filed which proposes an initiative measure and which complies with the requirements of this subchapter and other applicable law, the director shall review the text of the proposed initiative to determine whether the text complies with the single subject requirement and shall determine whether the initiative proposes "legislation."

(B) If the proposed text does not meet the requirements of division (A) of this section, the director shall notify the chief petitioner by certified mail, return receipt requested, that the prospective petition does not meet the single subject or legislative requirement.

(C) Any elector that is dissatisfied with the determination by the director, that the proposed initiative does not meet the requirements of division (A) of this section, may petition the circuit court for the county. The petition must be filed not later than the seventh business day after the written determination is made by the director.

(D) (1) If the proposed initiative meets the requirements of division (A) of this section, or in the case of a referendum petition that has been certified for circulation, the director shall transmit two copies of the prospective petition to the district attorney of the county, who shall, within five business days after

receiving the prospective petition, prepare a ballot title for the measure proposed and an explanatory statement for the voter's pamphlet. The ballot title shall conform to the requirements of state law.

(2) The explanatory statement shall consist of an impartial, simple and understandable statement explaining the measure and its effect. The explanatory statement shall not exceed 500 words.

(3) After preparing the ballot title and explanatory statement, the district attorney shall immediately return one copy of the prospective petition, ballot title and explanatory statement to the director and shall immediately transmit one copy of the prospective petition, ballot title and explanatory statement to one of the chief petitioners.

(E) The director, upon receiving a ballot title and explanatory statement for a county measure to be referred or initiated from the district attorney, shall publish in the next available edition of a newspaper of general circulation in the county a notice of receipt of the ballot title and explanatory statement including notice that an elector may file a petition for review of the ballot title or explanatory statement not later than the date referred to in division (F) of this section.

(F) Upon receiving the prospective petition, ballot title and explanatory statement from the district attorney, the director shall inscribe the date of receipt on it. Within seven business days after that date, any elector may petition the circuit court for the county to challenge the ballot title or explanatory statement prepared by the district attorney. At the end of the seven-day period, or following the final adjudication of any challenge, the director shall certify the ballot title as prepared by the district attorney or as prescribed by the court, as the case may be, to one of the chief petitioners.

(G) Any person filing a petition of review with the circuit court must file a copy of the challenge with the director not later than the end of the business day next following the date the petition is filed with the circuit court. Nothing in this section is intended to invalidate a petition that is timely filed with the circuit court.

(H) The procedures set forth in divisions (A) through (G) of this section for preparation of, and challenges to, ballot titles and explanatory statements for initiative measures shall also apply to referendum measures. However, the completion of such procedures shall not be a prerequisite to the circulation of petitions for referendum measures under § 5.103, and ballot titles need not be stated on petitions circulated to propose referendum measures. ('90 Code § 4.51.030) (Ord. 167, passed 1978; Ord. 212, passed 1979; Ord. 601, passed 1988; Ord. 881, passed 1997)

§ 5.103 PETITION AND CIRCULATION REQUIREMENTS.

(A) After the requirements of § 5.101(C) have been met in the case of referendum measures, and after the requirements of § 5.102(F) have been met in the case of initiative measures, the chief petitioners and any other persons eligible to circulate initiative and referendum petitions under state law may circulate a petition for the measure among the electors. The petition (cover sheet and signature sheet) shall conform to the requirements of state law.

(B) The petition identification number will be assigned by the director.

(C) Each signature sheet of a referendum petition shall contain the title, ordinance number or ordinance section numbers of the county legislation proposed by referral and the date it was adopted by the county governing body.

(D) No signature sheet shall be circulated by more than one person. Each signature sheet shall contain a statement signed by the circulator that each elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such elector is a legal voter of the county and that the information placed on the sheet by each such elector is correct.
('90 Code § 4.51.040) (Ord. 167, passed 1978; Ord. 298, passed 1982; Ord. 601, passed 1988; Ord. 881, passed 1997)

§ 5.104 FILING AND PERCENTAGE REQUIREMENTS; VERIFICATION.

(A) The director shall accept for signature verification in accordance with this subchapter only petitions which comply with the requirements of this subchapter and other applicable law.

(B) No petition shall be accepted for filing unless it contains at least the required number of verified signatures to submit the measure to the electors, as prescribed by divisions (G), (H) or (I) of this section.

(C) No initiative petition shall be accepted for signature verification more than six months after the date of the director's certification under § 5.102(F).

(D) Any petition to refer legislation adopted by the Board must be submitted for signature verification not more than 90 days after the Board's adoption of such legislation.

(E) An initiative or referendum petition shall not be accepted for signature verification if it contains less than 100% of the required number of signatures.

(F) Upon the acceptance of a petition, the director shall verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of State. Within 15 days after the director's acceptance of a petition, the director shall certify to the Board whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to the electors, and shall also state in the certificate the number of qualified signatures prescribed by divisions (G), (H) or (I) of this section to require the proposed measure to be submitted to the electors. The petition shall be considered filed as of the date of the director's certification.

(G) An initiative measure proposing the amendment, revision or repeal of the Charter, or parts thereof, shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 8% of the total number of votes cast in the county for all candidates for governor of Oregon at the most recent previous general election at which the office of governor was filled for a four-year term.

(H) An initiative measure proposing the adoption, amendment or repeal of any other county legislation, or parts thereof, shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 6% of the total number of votes cast in the county for all candidates for governor at the most recent previous general election at which the office of governor was filled for a four-year term.

(I) A referendum measure shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 4% of the total number of votes cast in the county for all candidates for governor at the most recent previous general election at which the office of governor was filled for a four-year term.
('90 Code § 4.51.050) (Ord. 167, passed 1978; Ord. 601, passed 1988; Ord. 881, passed 1997)

§ 5.105 MEASURES REFERRED BY BOARD.

(A) The Board may directly refer to the electors any county legislation adopted by it and any proposed property tax levy, tax base, or bond measure, and may directly refer to the electors proposed amendments, or revisions or the repeal of the Charter or parts thereof.

(B) In lieu of the procedures for preparation of a ballot title by the district attorney set forth in§§ 5.101 and 5.102, in the case of measures the Board refers under division (A) of this section, the Board shall prepare a ballot title and explanatory statement that conforms to the requirements of state law, and shall certify such ballot title and explanatory statement to the director.

(C) The director, upon receiving a ballot title and explanatory statement for a county measure to be referred from the Board, shall publish in the next available edition of a newspaper of general circulation in the county a notice of receipt of the ballot title and explanatory statement including notice that an elector

may file a petition for review of the ballot title or explanatory statement not later than the date referred to in division (D) of this section.

(D) Any elector may petition the circuit court to challenge the ballot title or explanatory statement prepared by the Board. Such petition must be filed with the circuit court within seven business days of the Board's certification. Any person filing a petition of review with the circuit court must file a copy of the challenge with the director not later than the end of the business day next following the date the petition is filed with the circuit court. Nothing in this section is intended to invalidate a petition that is timely filed with the circuit court.

(E) A measure shall be considered referred under this section as of the date the Board certifies its ballot title to the director.
('90 Code § 4.51.060) (Ord. 167, passed 1978; Ord. 212, passed 1979; Ord. 601, passed 1988; Ord. 626, passed 1989; Ord. 881, passed 1997)

§ 5.106 ELECTION DATES.

(A) Upon receiving the director's certification that a petition has been filed with sufficient qualified signatures to require the proposed measure to be submitted to the electors under § 5.104(F), or upon referring the measure on its own motion under § 5.105, the Board shall call an election for submission of the measure to the electors.

(B) The Board shall call the election on the next available election date in ORS 203.085 that is not sooner than the 90th day after the date of the director's certificate certifying sufficient signatures. In the event of a Board referral, the election on the referendum of county legislation shall be held on the next available election date for which the Board meets the filing requirements defined in ORS 254.103.
('90 Code § 4.51.070) (Ord. 167, passed 1978; Ord. 298, passed 1982; Ord. 601, passed 1988; Ord. 626, passed 1989; Ord. 881, passed 1997)

§ 5.107 ELECTION NOTICE AND PROCEDURE.

(A) Notice of elections on measures to be submitted to the electors on regular or special election dates shall be given in accordance with state law.

(B) Measures referred by the Board shall be designated on the ballot "Referred to the People by the Board of County Commissioners."

(C) Measures proposed by referendum petition shall be designated on the ballot "Referred by Petition of the People."

(D) Measures proposed by initiative petition shall be designated on the ballot "Proposed by Initiative Petition."

(E) Within 20 days following any election, the director shall certify the election results to the Board. The Board shall thereupon canvass the vote and enter its proclamation of the results in its journal.

(F) A measure adopted by the electors shall take effect 30 days after the election, unless such measure expressly provides a later effective date.
('90 Code § 4.51.080) (Ord. 167, passed 1978; Ord. 601, passed 1988; Ord. 881, passed 1997)

§ 5.108 STATE LAW APPLIES.

Applicable provisions of state law, dealing with any initiative and referendum procedures or other election matters not regulated by this subchapter, shall apply to initiative and referendum procedures on county legislation, together with this subchapter. The provisions of this subchapter shall prevail over any conflicting provisions of state law relating to matters subject to regulation and legislation by the county.
('90 Code § 4.51.090) (Ord. 167, passed 1978; Ord. 881, passed 1997)

CHAPTER 7: ADMINISTRATION

Section

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Auditor, see Charter § 8.10
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County financial administration, see ORS, Ch. 279
Public contracts and purchasing, see ORS, Ch. 279
Public meetings, see ORS 192.610
Public records, see ORS 192.410
State Tort Claims Act, see ORS 30.260

GENERAL PROVISIONS

§ 7.001 SUPPORT DEPARTMENT.

The Department of Support Services is created. The head of the department shall be the Director of the Support Services Department (director). The department shall perform the following:

(A) Plan, prepare and monitor the county budget in accordance with law;

(B) Promote a quality-oriented workforce;

(C) Provide employee services to the county government;

(D) Operate the county's accounting system and perform treasurer functions as prescribed by law; prepare necessary financial reports, record the receipt, investment and expenditure of county funds, purchase material and supplies necessary for the operation of the county government and administer contracts in accordance with law;

(E) Direct and manage all risk management and insurance programs for the county government;

(F) Advise and represent the county government in collective bargaining matters;

(G) Provide information technology services to the county government;

(H) Provide emergency management services; and

(I) Manage the county government's affirmative action program.
('90 Code § 2.30.115) (Ord. 841, passed 1995)

§ 7.002 DISHONORED CHECK FEES.

(A) For any check, draft, or order of payment in money given to the county by any person in payment of taxes or fees for any service provided by or through the county, which check, draft, or order of payment in money is dishonored for any cause, including but not limited to non-sufficient funds, closed account or no account, there shall be a fee assessed in the amount of then-current charge made to county by the bank from which the check was returned, plus an additional amount to cover internal costs, such as extra data entry, processing time, and unavailability of the revenues represented by the original check. The total amount assessed by the county for processing the dishonored check shall not exceed the amount set by resolution of the Board.

(B) At the discretion of the department which originally accepted the dishonored check, the fee assessed may be reduced to cover only the county's payment to the bank involved. The accepting department shall be responsible for the additional amount not assessed.

(C) The fee is collectible by the county in any lawful manner, including but not limited to filing of appropriate proceedings pursuant to statute, or such other means as may be legally pursued.
('90 Code § 5.10.090) (Ord. 713, passed 1992; Ord. 791, passed 1994)

§ 7.003 ACCOUNTING FEES.

The director is authorized and instructed to establish and collect fees chargeable to service districts for which the county provides accounting and related financial management services and for which the county provides automated data processing time and services, which shall be equal to the actual cost incurred by the county for providing these services as determined by the Director.
('90 Code § 5.10.520) (Ord. 105, passed 1975; Ord. 595, passed 1988)

§ 7.004 INFORMATION FEES.

For the services of the information technology services of gathering, preparing and providing requested information, a fee shall be charged which shall be equal to the actual cost of providing the services, as determined by the director. An additional amount shall be charged equal to 15% of the actual cost to defray the expenses of developing and expanding information base and access systems. The fee charged for information services to any governmental agency or unit shall be equal to the actual cost of gathering, preparing and providing the information only.
('90 Code § 5.10.540) (Ord. 105, passed 1975; Ord. 595, passed 1988)

§ 7.005 INTEREST FEES.

The finance division shall ensure that bills for all services performed by the county and all county accounts receivable are collected. Except where prohibited by law, contract or agreement, interest in an amount as set by resolution of the Board will be charged on all bills which remain unpaid for more than 30 days after the initial billing date.
('90 Code § 5.10.560) (Ord. 595, passed 1988)

§ 7.006 PURCHASING AND HANDLING FEES.

To defray the expenses of the county in providing purchasing and stores services for other governmental agencies and units which do not provide reciprocal services to the county, those agencies and units shall be charged a fee in an amount set by Board resolution. No fee charged under this section shall exceed the amount allowable under any applicable contract between the county and the affected agency or unit.
('90 Code § 5.10.040) (Ord. 105, passed 1975)

§ 7.007 CHAIR EXECUTIVE RULES.

The Chair is authorized to adopt Executive Rules or administrative procedures to implement and enforce the provisions of this code, and to carry out

the Chair's duties and responsibilities under the Charter.

Cross-reference:

Chair, see Charter § 6.10

RISK MANAGEMENT

§ 7.100 POLICY.

The Board recognizes that a coordinated risk assessment and management, and loss prevention programs are important to the preservation of county assets, the health and safety of county employees, and the financial interest of the county's residents. Risk management includes identifying potential loss exposures, analyzing alternatives, selecting and implementing loss reduction methods, and evaluating the results. The county shall have as its objectives:

(A) The prevention of accidental loss by the creation and administration of a proactive approach to loss prevention and reduction, risk assessment and management. The county will work to create a service environment in which county employees and members of the public can enjoy safety and security while transacting county business.

(B) The protection of the county against the financial consequences of accidental losses.

(C) The preservation of the county's assets and public service capabilities from loss, destruction, or depletion.

(D) The promotion of a balanced, comprehensive and cost-effective mix of exposure identification, risk evaluation, risk treatment and program implementation and monitoring activities.

(E) The minimization of the long-term cost to the county of all activities related to the identification, prevention and control of accidental losses and their consequences.

(F) The creation of a coordinated risk management and employee health and benefits program with internal procedures for reporting of all incidents, claims and losses incurred by the county, providing a constant assessment of fluctuating exposure to loss, loss-bearing capacity and available financial resources, including insurance.

('90 Code § 2.60.115) (Ord. 381, passed 1983; Ord. 581, passed 1988; Ord. 904, passed 1998)

§ 7.101 RISK MANAGEMENT FUND.

(A) *General provisions.* The county has a risk management fund (fund) created by the board separate from the general fund. The fund was created to account for expenditures and reserves associated with the protection of the county's assets, employees, programs and operations. The fund will account for the financing administration of the workers' compensation, general liability, auto liability, property, employee medical/dental benefits, legal services, life insurance, long-term disability, retiree insurance, unemployment and insured and self-insured programs provided for in the county's budget.

(B) *Disbursements.* The following expenditures may be charged to the fund accounts:

(1) Insurance premiums for county operations;

(2) Costs and expenses related to administration, investigation, adjustment and litigation of all insured and uninsured claims, and loss arising from the county's operations;

(3) All costs for repairing and replacing personal property, money, and improvements to real property owned or leased by the county to the extent the county has contractually assumed risk of loss, where such property losses are within the coverage and retention level of insurance coverage carried by the county.

(4) Assessments, licenses, fees, and bonds related to programs funded under division (A) of this section, required by state law.

(5) Employee workers' compensation claim expenditures in accordance with applicable statutes.

(6) County risk management and legal services expenses.

(7) Loss prevention programs and projects may be funded by the fund if they:

(a) Are clearly targeted toward loss control;

(b) Reduce the costs of loss immediately;

(c) Reduce the administrative costs of the risk management program; or

(d) Are mandated by state or federal law and affect more than one department.

Capital projects are excluded unless specifically approved by the Board.

(8) County unemployment obligations and related administrative expenditures.

(9) Employee medical/dental health care claims and insurance claims, health promotion programs, and related administrative expenditures.

(10) Any other insurance or self-insurance related expenditures as deemed appropriate by the Chair within standard budgetary procedures.

(11) Cost and expenses related to any legal action, matter or proceeding in any court or tribunal when authorized by the Chair, Board, Sheriff or Auditor.

(C) *Fund reporting.* A report shall be provided annually to the Chair and Board on the financial status of the fund accounts.

(D) *Fund equity and cash balance.*

(1) The fund (equity and cash) balance shall be maintained at a level to pay all claims, premiums, disbursements, reserves and incurred but not reported (IBNR) claims. Amounts shall not be transferred from the fund unless a program defined by division (A) of this section is discontinued without further financial obligation or it is determined by a qualified independent actuary that the funding level may be adjusted.

(2) In order to obtain an exemption from the security deposit requirement under ORS 656.407, the worker's compensation reserves established by the actuarial evaluation performed under division (E) of this section are dedicated for payments of compensation and amounts due the state Director of the Department of Insurance and Finance. The Director of the Department of Insurance shall have first lien and priority rights to the full amount of the worker's compensation funds required to pay the present discounted value of all present and future claims under ORS, Ch. 656.

(E) An actuarial evaluation shall be performed by a qualified independent actuary on the worker's compensation retiree insurance and liability sections of the insurance fund at least once every three years. ('90 Code § 2.60.120) (Ord. 381, passed 1983; Ord. 581, passed 1988; Ord. 725, passed 1992; Ord. 904, passed 1998)

§ 7.102 RISK MANAGEMENT FUNCTION.

(A) The Department of Support Services shall direct and manage employee health and benefit programs for the county. The authority granted includes, but is not limited to, the following:

(1) To purchase all insurance coverage required by law and contracts, or desirable for the effective and efficient operation of county government;

(2) To consolidate insurance coverage and combine with self-insurance as is in the best interest of the county.

(B) The Department of Support Services in consultation with County Counsel shall direct and manage all risk management and loss prevention programs for the county. The authority granted includes, but is not limited to, the following:

(1) To acquire actuarial, claims management, investigative and appraisal services for insured and self-insured program administration;

(2) To promulgate rules and procedures to govern the administration of the county's insurance and risk management activities;

(3) To administer all loss prevention activities and claims arising from county operations including, but not limited to, the county's general, auto and professional liability, property, workers' compensation, employee health care, life and disability benefits and unemployment claims;

(4) To coordinate the claims activity internally and/or with contracted claims service providers, legal counsel, department management and insurance companies;

(5) To identify loss exposures and administer programs to control and minimize losses to county assets, property, employees and the general public doing business with the county;

(6) To develop and maintain an information system for timely and accurate recording of loss experience, insurance premiums, property values, insurance fund cash flow and reserving obligations and other identified risk-related information;

(7) To develop manuals and programs for training county personnel on loss control/safety programs and activities; and

(8) To ascertain that contributions to the fund are adequate and appropriations and reserve balances are financially and actuarially sound.

(C) The Department of Support Services shall apportion to and collect from each county department, office, board, or commission its contribution for loss reserves, risk management and County Counsel expenses, insurance premiums, and loss expenditures. The contribution shall be based, wherever appropriate, upon the relative exposure and loss experience of each department for each aspect of risk and will be maintained in the county's insurance fund and subject to annual budgetary approval.
('90 Code § 2.60.130) (Ord. 381, passed 1983; Ord. 581, passed 1988; Ord. 725, passed 1992; Ord. 904, passed 1998)

§ 7.103 RISK ASSESSMENT AND LOSS PREVENTION.

Departments shall be responsible to conform with county, state and federal safety standards. Administrators, managers, and supervisors shall be responsible to conduct their operations in a manner which will safeguard the county's assets from loss or damage and employees from employment-related illness and injury. Each department in consultation with the Department of Support Services and County Counsel shall identify significant risks to the general public doing business with the county, county employees and county property. Where significant risks are identified, the Department of Support Services and County Counsel will recommend remedial action. Departments will take action to reduce these exposures within available county resources. Managers are responsible for reporting all losses or claims to the Department of Support Services, regardless of size of loss, in a timely manner as directed by county administrative procedures. The Department of Support Services is responsible for ensuring that mechanisms exist for reporting, record keeping and follow up and that these are known throughout the county.
('90 Code § 2.60.140) (Ord. 381, passed 1983; Ord. 581, passed 1988; Ord. 725, passed 1992; Ord. 904, passed 1998)

§ 7.104 AUTHORITY.

Authority for settlement of general liability claims and litigation against the county or its employees shall rest with the Chair or the Chair's designee, except that claims arising out of the Sheriff's office shall be settled upon the authority of the Sheriff or the Sheriff's designee.
('90 Code § 2.60.150) (Ord. 381, passed 1983; Ord. 581, passed 1988; Ord. 904, passed 1998)

COUNTY COUNSEL

§ 7.200 OFFICE ESTABLISHED.

An office of County Counsel is established. The County Counsel is the Chief Legal Officer of the county and shall be the Office Director. The County Counsel shall be appointed by the Chair subject to consent of a majority of the entire Board. The County Counsel may be removed from office by the Chair after first consulting with each other member of the Board concerning the decision.
('90 Code § 2.30.550) (Ord. 883, passed 1997)

§ 7.201 DUTIES.

The County Counsel shall:

(A) Provide legal advice and counsel to the Board and its various advisory boards, commissions and committees;

(B) Provide legal advice and counsel to the Chair and all county departments and offices;

(C) Provide legal advice and counsel to the Sheriff and Auditor;

(D) Prepare ordinances and other legal documents when requested by a member of the Board, Chair, Sheriff, auditor or a department director;

(E) Review and approve as to form all written contracts, ordinances, resolutions, Board orders, Chair executive orders, bonds and other legal documents;

(F) Control and supervise all civil actions and legal proceedings in which the county is a party or has a legal interest;

(G) Represent and defend the county and its elected officials, boards, commissions, committees, department directors and employees and other persons entitled to representation under the state Tort Claims Act in all appropriate legal matters, unless the county has an insurance policy or indemnification agreement which provides such representation and defense;

(H) Initiate, defend, appear or appeal any legal action, matter or proceeding in any court or tribunal when requested by the Board, Chair, Sheriff or auditor;

(I) Submit formal annual report to the Board concerning the status of all legal actions in which the county is a party, and at the request of any elected official report on the status of any legal matter;

(J) Prepare formal written opinions deemed necessary by the County Counsel regarding significant interpretations of federal and state law, the Charter and ordinances and other documents. Formal opinions may be requested by any county elected official or department director. Formal opinions shall be official guidance to the county unless superseded by court or administrative decisions, or subsequent legislation or administrative rules;

(K) Maintain custody of records including the office pleadings and other documents of all legal actions, and all County Counsel formal written opinions;

(L) Codify county ordinances as provided by Chapter 1 of this code of ordinances; and

(M) Employ outside legal counsel on behalf of the county when the County Counsel deems it necessary or appropriate to do so. A majority of the entire board may also employ outside legal counsel for a specific county matter. With this exception no county elected official, board, commission, committee, department director or employee shall employ or be represented by counsel other than the County Counsel.
('90 Code § 2.30.550) (Ord. 883, passed 1997)

§ 7.202 RELATIONSHIP TO COUNTY.

The county and the office of County Counsel shall have an attorney-client relationship and the county is entitled to all benefits thereof. For purposes of the attorney-client relationship, the county is a single entity and its elected and appointed officials

collectively and individually perform duties and exercise county legal authority.
('90 Code § 2.30.550) (Ord. 883, passed 1997)

CHAPTER 9: COUNTY EMPLOYMENT

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Cross-reference:

Personnel, see Charter §§ 7.10 through 7.50

Statutory reference:

Civil rights; unlawful employment practices, see ORS, Ch. 659

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Public employees rights and benefits, see ORS, Ch. 243

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GENERAL PROVISIONS

§ 9.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context requires a different meaning.

AFFIRMATIVE ACTION. Identifying existing or potential discriminatory conditions and making specific goal oriented corrective actions to eliminate and prevent unlawful discrimination.

APPEAL. A request for hearing filed with the executive secretary of the Merit System Civil Service Council.

APPOINTING MANAGER. A county manager with authority to make appointments to positions.

APPOINTMENT. All methods of selecting or employing any person to hold a position in county service.

BARGAINING AGENT. The person designated to represent the exclusive representative.

CAUSE. Misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service.

CLASS or ***CLASSIFICATION.*** A group of positions in the county classified service sufficiently similar in duties, authority and responsibility to permit grouping under a common title which would call for similar qualifications and the same schedule of pay.

CLASSIFICATION PLAN. A document which embodies all classes that have been established, and the specification or descriptions of these classes.

CLASSIFIED EMPLOYEE. An employee who is not exempt from the classified service.

CLASSIFIED SERVICE. Those county positions designated to be held by classified employees.

COMPENSATION PLAN. Salary, wages, special pay provisions and paid benefits.

CONFIDENTIAL EMPLOYEE. An employee who is exempt from collective bargaining solely because of the confidential nature of the work pertaining to collective bargaining.

COUNCIL. The Merit System Civil Service Council.

COUNTY SERVICE. In the employ of the county.

DISCRIMINATION COMPLAINT. A complaint that a personnel action was motivated by discrimination on the basis of race, religion, sexual orientation, sex, age, marital status, national origin, physical or mental disability or political affiliation.

ELECTED OFFICIAL. The Chair, Commissioner, Auditor, and Sheriff.

ELECTED OFFICIAL'S STAFF. Employees in positions which report directly to and serve at the pleasure of a county elected official and serve as such official's immediate secretary, administrative, legislative, or other immediate or first-line aide as defined in Section 701(f) of the Equal Employment Opportunity Act of 1972.

ELIGIBLE. A person whose name is on the list of persons certified to be qualified for employment.

EMPLOYMENT LIST. A list of persons who have been found qualified for appointment to a position in a particular class.

ENTRANCE TEST. A test for a position in a particular class.

EXCLUSIVE REPRESENTATIVE. The labor organization which has the right to be the bargaining representative of all employees in an appropriate bargaining unit.

EXECUTIVE SECRETARY. The executive secretary of the Merit System Civil Service Council.

EXEMPT EMPLOYEE. An employee in a classification not covered by a collective bargaining agreement, except for any confidential employee.

GRIEVANCE. A complaint filed pursuant to the terms of an existing collective bargaining agreement.

JOB DESCRIPTION. A description of an individual position which contains the duties, responsibilities, skill and ability requirements of the individual position.

LAYOFF. A reduction of the county work force.

LAYOFF LIST. A list of persons who have been laid off in a position in a particular class who are entitled to have their names certified for appointment to a position in that class.

LIST. An employment list, promotion list, transfer list or layoff list.

MANAGERIAL EMPLOYEE. A person who formulates policy or has a major role in the administration of policy which requires the exercise of independent judgement; provided that such role is not of a routine clerical nature.

PERSONNEL ACTION. Any action taken on behalf of the county with reference to an employee, an applicant for the classified service or a classified position.

PERSONNEL OFFICER. The county Chair.

PROBATIONARY PERIOD. A working test period during which a classified employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of that position.

PROMOTION. A movement of an employee to a classification that has a higher maximum rate than the employee's current classification.

PROMOTION LIST. A list of persons who have been found qualified by a promotion test for appointment to a position in a particular class.

PROMOTIONAL EXAMINATION. A test for a position in a particular class for which only employees of the county are eligible to participate.

RECLASSIFICATION. The assignment of an existing position from one to another class of work.

REGULAR EMPLOYEE. The status a classified employee acquires after successful completion of the probationary period for the particular position to which the employee was appointed.

TRANSFER. A movement between positions having the same maximum rate.

UNCLASSIFIED EMPLOYEE. An employee who is exempt from the classified service.
('90 Code §§ 3.10.010, 3.30.010) (Ord. 89, passed 1974; Ord. 248, passed 1980; Ord. 461, passed 1985; Ord. 837, passed 1995)

§ 9.002 POLICY AND PURPOSE; MERIT PRINCIPLES.

(A) This chapter designates those county employees in classified service, sets forth the rights and privileges of those employees and those persons desirous of being considered for classified service, and states the county's obligations in establishing and maintaining a merit system of classified service.

(B) The Board established a merit system of personnel administration as provided by Charter § 7.40 based on merit principles and professional methods governing the appointment, tenure, promotion, transfer, layoff, separation, discipline and other incidents of employment relating to county employees. These merit principles include:

(1) Recruiting, appointing and promoting employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applications for initial appointment;

(2) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected;

(3) Assuring impartial treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, religion, color, sex, sexual orientation, age, physical or mental disability, marital status or national origin, and with proper regard for their privacy and constitutional rights as citizens; and

(4) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election to or a nomination for office.
('90 Code §§ 3.10.015) (Ord. 89, passed 1974; Ord. 248, passed 1980; Ord. 461, passed 1985; Ord. 837, passed 1995)

§ 9.003 PERSONNEL RULES.

The personnel rules of the county shall be adopted by Board resolution or by Chair Executive Rule.

§ 9.004 ADMINISTRATION.

The county functions imposed by this chapter shall be performed or enforced by the person designated as the Chair, who shall adopt personnel rules to administer the provisions of this chapter.
('90 Code § 3.10.080) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.005 PERSONNEL FILES; INSPECTION.

(A) The Chair shall establish and maintain a records system for all employees in the county.

(B) All personnel files shall be considered confidential and shall only be disclosed within the county to aid in personnel administration.

(C) No data in personnel files shall be disclosed to outside sources of inquiry except as required by law or with the consent of the employee.

(D) Each employee shall have the right to inspect those records which have been or may be used in connection with any personnel action with respect to that employee, wherever retained by the county, at any reasonable time.
('90 Code § 3.10.090) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.006 LABOR ORGANIZING; FAIR SHARE AGREEMENTS.

The Board recognizes the rights of county employees to organize or refrain from organizing and recognizes and affirms the principle of collective bargaining to establish wages, hours and working conditions. Nothing in this code prohibits the county and bargaining representative from executing fair share agreements.
('90 Code § 3.10.202) (Ord. 89, passed 1974)

§ 9.007 APPEALS FROM PERSONNEL ACTIONS.

There shall be a right of appeal by any employee of and applicants for the classified service as follows:

(A) Any regular exempt classified employee who is reduced in pay, demoted, suspended or dismissed and who does not have available a procedure for the particular issue in dispute shall have the right to appeal the action directly to the council. In addition, an exempt classified employee may appeal as an applicant for the classified service.

(B) Classified and confidential employees who are a part of a bargaining unit, and do not have available a grievance procedure for a particular issue in dispute, and applicants for the classified service shall have the right to appeal directly to the council regarding personnel actions, including complaints of discrimination.
('90 Code §§ 3.10.025, 3.10.300, 3.10.305) (Ord. 89, passed 1974; Ord. 248, passed 1980; Ord. 461, passed 1985; Ord. 837, passed 1995)

§ 9.008 CONFORMANCE WITH LAW.

This chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all county, state and federal equal employment opportunity laws or rules and regulations pertaining thereto.
('90 Code § 3.10.280) (Ord. 89, passed 1974; Ord. 94, passed 1975)

§ 9.009 EQUAL EMPLOYMENT OPPORTUNITY.

(A) Discrimination in any personnel actions on the basis of race, color, sex, sexual orientation, age, religion, national origin, political affiliation or physical or mental disability is prohibited, except when they constitute bona fide occupational qualifications.

(B) All decisions on employment and promotion for classified service shall be made in accordance with the principles of equal opportunity by utilizing job-related requirements for these opportunities.

(C) No question in any application or request for recommendation or in any test shall elicit information concerning the religious or political opinions or affiliations of any person, nor shall any inquiry be made concerning those opinions or affiliations.
('90 Code § 3.10.270) (Ord. 89, passed 1974; Ord. 248, passed 1980)

MERIT SYSTEM CIVIL SERVICE COUNCIL

§ 9.100 MEMBERSHIP; SUPPORT.

(A) The Civil Service Commission established by Charter consists of a Board of three members known as the Merit System Civil Service Council. Appointments to the council shall be made by the Board according to the provisions of the Charter. A person appointed to fill a vacancy occurring prior to the expiration of the term of any member shall be appointed for the remainder of that term.

(B) No member of the council shall hold any other public or official position with the county government.

(C) No member of the council shall receive compensation for services rendered.

(D) A member of the council may be removed from office by the board for incompetency, dereliction of duty or other good cause after being given a copy of the charges and an opportunity to be heard publicly on the charges before the board.

(E) The Board shall provide the council with sufficient staff, office space, supplies and equipment in accordance with county budget procedures.
('90 Code § 3.10.030) (Ord. 89, passed 1974)

§ 9.101 OFFICERS; MEETINGS.

The council shall elect one of its members presiding officer. It shall meet at such times and places as are specified by call of the presiding officer or any two members of the council. Two members of the council shall constitute a quorum and the votes of any two members concurring shall be sufficient to make a decision.
('90 Code § 3.10.030) (Ord. 89, passed 1974)

§ 9.102 DUTIES.

The council shall perform the following duties:

(A) Designate one of its staff as its executive secretary and delegate to that person such administrative duties as may be necessary;

(B) Adopt such rules and hold such hearings as it finds necessary in order to perform the duties and responsibilities vested in it by Charter §§ 7.20 and 7.30 and this chapter;

(C) Submit periodic reports to the Board regarding the activities of the council and the application of merit principles in county personnel management;

(D) Review and comment on any personnel rules or revisions thereof, other than those referred to in division (B) of this section, submitted to it by the Chair;

(E) Conduct hearings on appeals from classified employees who do not have available a grievance procedure for those particular issues in dispute pursuant to a collective bargaining agreement, and applicants for the classified service regarding personnel actions, including complaints of discrimination; and

(F) Make investigations and issue reports to the Board concerning compliance with, enforcement and effect of the provisions of this chapter, Charter § 7.40, and the rules adopted under these provisions. The council may inspect all county institutions, departments, offices and positions as necessary. An investigation may be made by the council or by any member designated by the council for that purpose.
('90 Code § 3.10.040) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.103 WITNESSES AND EVIDENCE; POWERS OF THE COUNCIL.

(A) In the course of an investigation or hearing, the council, or any member, may administer oaths, require the attendance of witnesses and the production of books, papers, documents and accounts appertaining to the investigation.

(B) The circuit court in the county may, upon council request, compel the attendance of witnesses, the giving of testimony and the production of books, papers, accounts and documents as required by a subpoena duly issued by the council or designated member under this section, and may punish the disobedience of those witnesses as a contempt.

(C) The council may, in any investigation or hearing, cause the deposition of witnesses residing within the state to be taken in the manner prescribed by state law for deposition in administrative hearing procedures. To that end, the council may require the attendance of witnesses and the production of books, papers, documents and accounts.

(D) Any person whose attendance is required before the council or any member of the council, shall be entitled to the same fees and mileage as are allowed by law to witnesses in civil cases in courts of record, except that no person shall be entitled to any fees or mileage for attendance who is employed in the public service of the county in which that person is called as witness. The fees and mileage allowed by this section need not be prepaid but claims therefor shall be paid upon certification by the executive secretary of the council.
('90 Code § 3.10.050) (Ord. 89, passed 1974)

§ 9.104 POWERS OF HEARINGS ADMINISTRATOR.

Nothing in this section or elsewhere in this chapter shall be construed as prohibiting the council from designating under applicable personnel rules a person to preside at any hearing, provided that the final decision shall be made solely by the council. If a person is designated to preside at any hearing conducted under county personnel rules regarding disciplinary actions, then all provisions of county personnel rules regarding disciplinary actions relating to the powers and authority of the council in conducting hearings and investigations shall be fully applicable to that person.
('90 Code § 3.10.060) (Ord. 130, passed 1976)

§ 9.105 COUNTY COUNSEL AS COUNSEL AND PROSECUTOR.

The County Counsel shall be the legal advisor of the council and shall prosecute all violations of this chapter.
('90 Code § 3.10.070) (Ord. 89, passed 1974)

CLASSIFICATION

§ 9.200 EXEMPTIONS FROM CLASSIFIED SERVICE.

The county employees exempt from the classified service shall be comprised of:

(A) Elected officials, their personal assistants and secretaries and other legislative employees;

(B) Persons employed in a professional or scientific capacity to conduct a special inquiry, investigation or examination on behalf of the Board;

(C) County Counsel;

(D) Department and division heads and employees who occupy positions designated by the Chair by personnel rule to be filled by managerial employees;

(E) The direct personal assistants to department heads other than clerical employees;

(F) Any special deputy sheriff appointed to act without compensation from the county;

(G) Any deputy district attorney or assistant county counsel;

(H) Any person designated to perform the functions of Sheriff and the Sheriff's direct personal staff; and

(I) Persons employed by the county Auditor. ('90 Code § 3.10.100) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.201 CLASSIFIED SERVICE; STATUS OF UNCLASSIFIED EMPLOYEES.

(A) The classified county service shall be comprised of all positions in the employ of the county which are not exempt by county code.

(B) Positions in the unclassified county service may be filled by classified employees. Except as provided in division (C) with respect to return rights of sworn law enforcement officers and correction officers, and division (D) with respect to any other classified employee, any classified employee so appointed forfeits upon such appointment that employee's status as a classified employee, and any and all related rights. Any such employee shall submit to the Chair a signed statement acknowledging notice of this provision and waiving that status prior to any such appointment. The Chair shall provide such notice, and secure the signed statement prior to that appointment.

(C) Any sworn law enforcement officer or corrections officer appointed to the unclassified service shall, after termination of service in an unclassified position, upon request, be restored to the employee's status in the classified service without loss of benefits, unless the employee was terminated under circumstances which would have constituted cause for termination in the classified service, as determined by the council.

(D) Any other classified employee appointed to the unclassified service, shall, after termination of service in an unclassified position, upon request, be restored to the employee's status in the classified service without loss of benefits under any of the following circumstances:

(1) Termination within six months from the time of appointment in an unclassified position, unless the employee was terminated under circumstances which would have constituted cause for termination in the classified service, as determined by the council;

(2) Termination due to elimination of the unclassified position; or

(3) Voluntary demotion from the unclassified to the classified service with the recommendation of the department director and approval of the Chair.

(E) Employees filling positions in the exempt or unclassified service may compete for promotional opportunities in the classified service.
('90 Code § 3.10.110) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.202 COMPENSATION PLAN.

(A) The Chair shall maintain a compensation plan. The compensation plan revisions shall be subject to approval of the Board if costs of the revision exceed department or county budgets and shall be subject to negotiation with appropriate bargaining agents under state law.

(B) It is county policy to establish a compensation plan that provides pay and benefits necessary for the county to recruit, select, and retain qualified employees who are exempt from the bargaining unit; recognizes employee performance, growth, and development; maintains an appropriate internal relationship among classification and employees based on job responsibilities, qualifications, and authority; and that maintains parity between equivalent exempt and non-exempt positions.
('90 Code § 3.10.120) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.203 CHAIR PLAN.

The Chair shall be responsible for developing and presenting annual compensation plan adjustment recommendations to the Board. These recommendations shall be based on periodic surveys of comparable employers, internal classification relationships, financial constraints, and actual or anticipated pay adjustments for non-exempt employees.
('90 Code § 3.30.025) (Ord. 778, passed 1993; Ord. 855, passed 1996)

§ 9.204 MERIT EVALUATIONS AND CONDITIONS OF EMPLOYMENT.

(A) The Chair may maintain a merit evaluation system for all employees in classified and unclassified positions. The merit evaluation system shall be based on standards of performance relative to an employee's individual assignment. Merit evaluations may be used as the basis of evaluation for any personnel action.

(B) The Chair may establish rules for exempt employees that cover working conditions, administrative review of personnel actions, recognition and reward programs, employee benefits and other conditions of employment which may be necessary to provide an inclusive system of personnel administration.
('90 Code § 3.10.130) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.205 CLASSIFICATION PLAN.

The Chair shall prepare and maintain a classification plan which shall group all positions in the classified service in classes based on their duties, authority and responsibilities, and which shall set forth for each class of positions, a class title, a statement of the duties, authority and responsibilities, and a statement of the required knowledge, skills and abilities. Each class of positions may be subdivided and classes may be grouped and ranked in an appropriate manner.
('90 Code § 3.10.150) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.206 ENTRANCE AND PROMOTION TESTS.

(A) The Chair shall, from time to time formulate, validate and conduct entrance and promotion tests for the classified service. The Chair may designate certain positions in specified career fields as training or apprentice positions from which promotion may be made to the next higher position without competitive examination upon completion of established training criteria and the incumbent's meeting of the minimum qualifications.

(B) The entrance and promotion tests shall be competitive job-related tests and shall be of such character as to determine the qualifications, competence and ability of the persons tested to perform the duties of the class of positions for which a list is to be established.

(C) Examination procedures may be modified to accommodate disabled persons who are regarded as having a physical or mental impairment which limits one or more major life activities.

(D) Admission to tests shall be open to all persons whose applications demonstrate the required qualifications and may be lawfully appointed to a position in the class for which a list is to be established. Qualification shall be specified at the time of announcement.
('90 Code § 3.10.160) (Ord. 89, passed 1974; Ord. 248, passed 1980)

§ 9.207 TYPES OF APPOINTMENT AND POSITIONS.

The Chair shall define and set forth personnel rules to define types of positions, types of appointments, status of employees; to set forth methods to fill positions, to reduce numbers of positions and employees and to determine length of probationary periods within the classified service. Types of positions and appointments may include but are not limited to permanent, temporary, seasonal, on-call, part-time or limited duration. Probationary periods shall be established to allow adequate time for an employee to demonstrate his or her ability to perform the work of the position.

CHARITABLE SOLICITATION

§ 9.300 FINDINGS AND PURPOSE.

(A) The county has no formal policy regarding employee contributions to funds or federations through payroll deductions.

(B) The Board supports charitable giving by county employees and believes providing employees meaningful choices among charitable groups will increase overall giving and employee satisfaction in the program.

(C) The Board finds that this subchapter is necessary to assure that funds are solicited from county employees by qualified funds or federations, to minimize workplace disruption and the administrative costs of charitable solicitation in the workplace, and to expand the range of choices for county employees who wish to contribute to charities.
('90 Code § 3.11.005) (Ord. 634, passed 1989)

§ 9.301 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CHARITABLE ORGANIZATION. Any entity described in Internal Revenue Code section 501(c)(3) (26 USC § 501(c)(3)) and exempt from federal income tax under Internal Revenue Code section 501(a) (26 USC § 501(a)).

DIRECT DESIGNATION. The fund or federation permits the donor to designate a specific program, agency or other entity within the fund or federation to receive the donation, rather than requiring that the donation be distributed among programs, agencies or other entities according to a schedule or formula determined by the fund or federation.

DONOR OPTION. The fund or federation permits the donor to designate a donation to a specific charitable organization not a fund or federation or any part of any fund or federation in the campaign.

FUND or ***FEDERATION.*** An entity serving as the agent of a group of member charitable organizations to which it disburses funds, or an entity that grants funds to charitable organizations.
('90 Code § 3.11.010) (Ord. 634, passed 1989)

§ 9.302 COMPLIANCE REQUIRED.

Charitable solicitations of county employees while on the job during working hours shall be conducted only in compliance with this subchapter.

Only funds or federations certified under this subchapter shall be allowed to solicit contributions by county employees during the annual campaign.
('90 Code § 3.11.015) (Ord. 634, passed 1989)

§ 9.303 CAMPAIGN MANAGEMENT COUNCIL ESTABLISHED.

(A) A Campaign Management Council is established. Members of the council shall be permanent county employees. The council shall consist of twelve voting members:

(1) One representative of the Board;

(2) One representative of each county department;

(3) One representative from the Sheriff's office;

(4) One representative from finance;

(5) One representative from payroll; and

(6) One union representative.

(B) The council shall select a Chair.

(C) In addition to the voting members, each fund or federation certified under this subchapter shall have a nonvoting representative on the council.
('90 Code § 3.11.020) (Ord. 634, passed 1989; Ord. 718, passed 1992; Ord. 854, passed 1996)

§ 9.304 RESPONSIBILITIES OF CAMPAIGN MANAGEMENT COUNCIL.

The council shall have the following responsibilities:

(A) Approve the format and distribution of campaign literature and communications. Each participating fund or federation shall supply its campaign material to the council as required by council rules;

(B) Regulate the annual campaign so as to maximize employee contributions in a voluntary atmosphere;

(C) Establish written guidelines for the time, place, and manner of the campaign, consistent with the purposes of this subchapter. The council may waive or adjust its guidelines in particular cases where strict application of the guidelines would be unjust, so long as the purposes of this subchapter are not violated.
('90 Code § 3.11.025) (Ord. 634, passed 1989)

§ 9.305 CERTIFICATION CRITERIA.

(A) The Campaign Management Council shall certify funds or federations for the purpose of conducting a fund drive among the employees of the county. The council shall certify only those funds or federations which meet all the following criteria:

(1) The fund or federation is qualified as exempt under section 501(c)(3) of the Internal Revenue Code;

(2) The fund or federation disburses funds to at least ten charitable organizations;

(3) The fund or federation either provides services to local residents or works to improve the quality of life using an international, national, regional or local focus. A fund or federation with an international, national, or regional focus must assign a local representative to be available as needed to meet the requirements of this chapter and the Campaign Management Council's guidelines;

(4) The fund or federation has a written policy of nondiscrimination regarding race, color, religion, national origin, handicap, age, sex, and sexual orientation. This policy shall be applicable to the fund or federation's staff and board of directors;

(5) The fund or federation has made the filings required by the Charitable Trust and Corporation Act and the Oregon Charitable Solicitation Act (ORS Chapter 128) and has not been

found to be guilty of a violation of either act by a court of competent jurisdiction during the 12 months preceding its application for certification;

(6) The fund or federation has an unpaid board of directors;

(7) The fund or federation has been incorporated no less than one year prior to the date of application for certification as a fund or federation;

(8) The fund or federation demonstrates that it has filed IRS Form 990, its most recent audit (if revenue exceeds $100,000) and CT12 return as required by state law and provides copies of the same upon request by the Campaign Management Council;

(9) The fund or federation provides a direct designation to county employees. This does not limit the ability of a fund or federation to offer a donor option program;

(10) If certified by the county in a prior year, the fund or federation has paid the required share of costs for published materials as required under § 9.308.

(B) Not more than six organizations meeting these criteria and which are selected by the Campaign Management Council shall be placed on the list of those organizations certified by the Chair and Board as being eligible to receive contributions from county employees via payroll deduction. The selection committee shall consist of the voting members of the council and shall review proposals every three years, selecting those organizations which in its judgment provide county employees with the best choices in the areas of health, human welfare services, conservation, community development, cultural enrichment, and international support.

(C) Certification of a fund or federation by the Campaign Management Council shall be valid for a term of three years. During the term of certification, the fund or federation shall respond to reasonable requests by the Campaign Management Council for assurance that all requirements for certification have been and are being met. Failure to respond may be grounds for decertification.
('90 Code § 3.11.030) (Ord. 634, passed 1989; Ord. 718, passed 1992; Ord. 854, passed 1996)

§ 9.306 DECERTIFICATION.

(A) The Campaign Management Council shall decertify any certified fund or federation that:

(1) Fails to substantially comply with the campaign guidelines established by the Council; or

(2) Includes intentionally false or misleading information on a certification application.

(B) A notice of decertification shall be in writing and shall advise the recipient of the right of appeal under this subchapter.

(C) Any fund or federation that is decertified may not participate in the charitable solicitation program for the two campaign years following decertification. However, employee donations shall continue to be distributed to the decertified fund or federation until the end of the campaign year in which the final order of decertification is issued.
('90 Code § 3.11.035) (Ord. 634, passed 1989)

§ 9.307 INELIGIBILITY.

Any certified fund or federation which does not receive donations from at least 25 county employees during the campaign in any year following its first year of certification, shall be ineligible for the annual fundraising campaign for the next year. Following the year of ineligibility, the fund or federation may reapply for certification.
('90 Code § 3.11.040) (Ord. 634, passed 1989)

§ 9.308 APPLICATION AND APPEAL PROCEDURE.

(A) An application for certification shall be submitted as required by Campaign Management Council guidelines. The application shall be on forms

provided by the council. The council shall advise each applicant in writing of whether the application is accepted or denied.

(B) In the event an application is denied or a fund or federation is decertified, the council shall state the reasons for the action in writing and advise the applicant of the right of appeal to the Board.

(C) An appeal shall be filed with the clerk of the Board on or before the tenth day after notice of the action is mailed by the Campaign Management council. If a timely appeal is filed, the matter shall be promptly scheduled on the agenda of the Board. Notice of the hearing shall be mailed to the appealing party no fewer than five days before the hearing. At the hearing on the appeal, a representative of the Campaign Management Council shall advise the Board of the reasons for the action, and the appellant shall be heard in response. The Board shall make its decision at the conclusion of the hearing or at a continuation of the hearing. The Board's order shall be in writing and shall state the reasons for the action.
('90 Code § 3.11.045) (Ord. 634, passed 1989)

§ 9.309 COSTS PAID BY CERTIFIED ORGANIZATIONS.

The Campaign Management Council shall require that the total costs for the design and printing of any combined brochure, payroll deduction form, and related documents shall be paid by certified funds or federations in proportion to the amount of funds they raise during the campaign.
('90 Code § 3.11.050) (Ord. 634, passed 1989)

§ 9.310 PAYROLL DEDUCTION SYSTEM.

(A) The county's payroll deduction system shall be used to distribute charitable contributions only to funds or federations certified under this subchapter. Undesignated contributions shall not be accepted.

(B) In the event the county payroll system must be expanded or modified to accommodate the funds or federations certified hereunder, the Board may impose a fee payable by all certified funds or federations to defray the costs of the expansion or modification. Any such fee requirement shall be adopted as an amendment to this subchapter.
('90 Code § 3.11.055) (Ord. 634, passed 1989)

PROHIBITED CONDUCT AND DISCIPLINARY ACTION

§ 9.400 POLITICAL ACTIVITY PROHIBITED.

(A) In addition to the requirements of ORS 260.432, no person in the county service is under any obligation to contribute to any political fund or to render any political service to any person or party. No person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No person in the county service, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under the merit system or promise or threaten to do, for giving or withholding or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose. No person in the county service shall use official authority or influence to coerce the political action of any person or body, or to affect or interfere with any nomination, appointment or election to public office of any other person. No county employee shall take part in any political activity whatsoever for or against any person, candidate or party during their working hours.

(B) County employees who, as a normal and foreseeable incident to their principal jobs or positions perform duties in connection with an activity financed in whole or in part by federal loans or grants, will be subject to the federal laws, rules and regulations governing political activity as administered by the United States Civil Service Commission.
('90 Code § 3.10.500) (Ord. 89, passed 1974)

§ 9.401 POLITICAL INFLUENCE PROHIBITED.

(A) No county officer and no person who is nominated or seeks nomination or appointment for county office shall use, or promise to use, directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person to secure, any office or appointment in the public service, or any nomination, confirmation or promotion, or increase of salary in consideration that the vote, political influence or action shall be given or used in behalf of any candidate, officer, or political party or association, or upon any other corrupt condition, or consideration.

(B) No public officer or employee or person having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employee, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the political vote or action of any citizen, or the removal, discharge or promotion of any public employee, or upon any corrupt consideration.

(C) As used in this section:

PUBLIC EMPLOYEE. Includes every person not an officer who is paid from the public treasury.

PUBLIC OFFICER. Includes all public officials with the county, whether paid directly or indirectly from the public treasury of the United States, the state or any civil division thereof, including counties and cities, and whether by fees or otherwise.
('90 Code § 3.10.510) (Ord. 89, passed 1974)

§ 9.402 PROHIBITED MERIT SYSTEM CONDUCT.

No person shall:

(A) Alone or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect to that person's rights under this chapter.

(B) Falsely mark, grade, estimate or report under the examination or proper standing of any person examined, registered or certified pursuant to this chapter or aid in so doing, or make any false representation concerning the same, or concerning the person examined.

(C) Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified or to be examined, registered or certified.

(D) Impersonate any other person, or permit or aid in any manner any other person to impersonate him, in connection with any examination or registrations, or application or request to be examined or registered.
('90 Code § 3.10.520) (Ord. 89, passed 1974)

§ 9.403 DISCIPLINARY ACTION.

(A) A regular employee may, in good faith for cause, be subject to disciplinary action by suspension, written reprimand, demotion, reduction in pay or dismissal, provided, however, that such action shall take effect only after the appointing authority gives written notice of the action and its cause to the employee and the appropriate bargaining agent, if any.

(B) In the case of dismissal, the employee will be under suspension without pay for 15 days prior to the effective date of dismissal.
('90 Code § 3.10.300) (Ord. 89, passed 1974; Ord. 248, passed 1980)

CHAPTER 11: REVENUE AND TAXATION

Section

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MISCELLANEOUS FEE PROVISIONS

§ 11.001 POLICY AND PURPOSE OF FEES.

Because of the increasing costs to the county of providing services to the public and of discharging the legal responsibilities of the county, and because of the decreased availability of general county revenue to defray costs, the Board declares it to be in the interests of the people of the county for the fees established in this code of ordinances to be imposed and collected by the county from the persons directly served or affected by the provision of such services and the performance of such responsibilities.
('90 Code § 5.10.005) (Ord. 105, passed 1979)

§ 11.002 FEES FOR PUBLICATIONS AND RECORDS.

The director of each department of the county shall establish a schedule of fees, which shall be conspicuously posted at appropriate locations, for publications and copies of records provided by the department. The fees for copies of records shall, where appropriate, differentiate between and specify fees for copies according to the method and format of reproduction. The fees authorized by this section shall be based upon actual cost as determined by the directors.
('90 Code § 5.10.060) (Ord. 157, passed 1977)

§ 11.003 FEES FOR TAPES AND DOCUMENTS PROVIDED BY THE CLERK OF THE BOARD'S OFFICE.

The fees for the code and duplication of the records of the Board shall be set by the office of the Board clerk to cover the actual cost of printing and distribution.
('90 Code § 5.10.080) (Ord. 390, passed 1983; Ord. 459, passed 1985; Ord. 706, passed 1991)

PERSONAL PROPERTY TAX SALES

§ 11.100 SALE FOR AMOUNT DUE.

The personal property tax collector or any deputy or agent shall first attempt at public auction to sell seized personal property for the taxes, interest and penalties due.
('90 Code § 5.20.005) (Ord. 734, passed 1992)

§ 11.101 INSUFFICIENT BID.

(A) If no bidder at the sale offers to pay the amount due, the personal property tax collector may then attempt to sell the property at the same auction.

(B) The personal property tax collector shall sell the property at the auction if, based on the information available at the time, it is determined that:

(1) The county may incur significant costs to keep the property until a later sale;

(2) The county may not get the best possible price at a later sale.
('90 Code § 5.20.010) (Ord. 734, passed 1992)

MOTOR VEHICLE FUEL TAX

§ 11.200 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

AIRCRAFT FUEL. Any gasoline and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of aircraft, except gas or liquid, the chief use of which, as determined by the Division, is for purposes other than the propulsion of aircraft.

DEALER. Any person who:

(1) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in, and after the same reaches the county. ***DEALER*** does not include any person who imports into the county motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under this subchapter and who assumes liability for the payment of the applicable license fee to the county; or

(2) Produces, refines, manufactures or compounds motor vehicle fuels in the county for use, distribution or sale in the county; or

(3) Acquires in the county for sale, use or distribution in the county motor vehicle fuels with respect to which there has been no license fee previously incurred.

DISTRIBUTION. In addition to its ordinary meaning, also includes the delivery of motor vehicle fuel by a dealer or subdealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer or subdealer.

DIVISION. The Motor Vehicles Division of the Department of Transportation.

HIGHWAY. Every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

MOTOR VEHICLE. All vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

MOTOR VEHICLE FUEL. Includes gasoline and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas or liquid, the chief use of which, as determined by the Division, is for purposes other than the propulsion of motor vehicles upon the highways of the state. The term shall not include diesel fuel.

SERVICE STATION. Includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

SUBDEALER. Includes every person other than a dealer engaging in the business of handling motor vehicle fuel for sale and distribution both within and without the county.
('90 Code § 5.30.010) (Ord. 123, passed 1976)

§ 11.201 FEE IMPOSED; ADMINISTRATION BY DIVISION.

A business license fee is imposed on every dealer or subdealer. The fee imposed shall be paid monthly to the Division, as agent for the county. The Division is designated the agent of the county for the purposes of administering the business license fee imposed by this subchapter and is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the fee as it is authorized under ORS 319.010 to 319.430 with regard to the business license tax imposed by these provisions.
('90 Code § 5.30.020) (Ord. 123, passed 1976)

§ 11.202 MONTHLY STATEMENT BY DEALER; AMOUNT OF FEE.

(A) Subject to divisions (B) and (C) of this section, in addition to any fees or taxes otherwise provided for by law, every dealer and subdealer engaging in his own name, or in the name of others, or in the name of his representatives or agents in the county, in the sale, use or distribution of motor vehicle fuel or withdrawal of motor vehicle fuel for sale, use or distribution within areas in the county within which the county has the power to tax the sale, use or distribution of motor vehicle fuel, shall:

(1) No later than the 25th day of each calendar month, render a statement to the Division of all motor vehicle fuel sold, used, distributed or so withdrawn by him in the county as well as all such fuel sold, used or distributed in the county by a purchaser thereof upon which sale, use or distribution the dealer is liable for the applicable license fee during the preceding calendar month.

(2) Pay a license fee computed as of October 1, 1981, on the basis of $0.03 per gallon of such motor vehicle fuel, upon which no license fee has previously been paid or is otherwise due under this subchapter, so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in this subchapter.

(B) In lieu of claiming refund of the fee paid as to motor vehicle fuel consumed by the dealer or subdealer in nonhighway uses as provided in §§ 11.219, 11.220, and 11.223, or of any prior erroneous payment of license fee made to the county by the dealer or subdealer, the dealer or subdealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of fee.

(C) The license fee shall not be imposed wherever it is prohibited by the constitution or laws of the United States or the state.
('90 Code § 5.30.030) (Ord. 123, passed 1976; Ord. 273, passed 1981)

§ 11.203 LICENSE REQUIRED.

No dealer shall sell, use or distribute any motor vehicle fuel until he has secured a dealer's license as required by this subchapter. No subdealer shall sell, use or distribute any motor vehicle fuel until he has secured a subdealer's license as required by this subchapter.
('90 Code § 5.30.040) (Ord. 123, passed 1976)

§ 11.204 APPLICATION AND ISSUANCE OF LICENSE.

(A) Every person, before becoming a dealer or subdealer in motor vehicle fuel in the county, shall make an application to the Division for a license authorizing such person to engage in business as a dealer or subdealer.

(B) Applications for the license must be made on forms prescribed, prepared and furnished by the Division.

(C) The applications shall be accompanied by a duly acknowledged certificate containing the following:

(1) The business name under which the dealer or subdealer is transacting business within the county;

(2) The place of business and location of distributing stations in the county; and

(3) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent.

(D) The application for a motor vehicle fuel dealer's or subdealer's license having been accepted for filing, the Division shall issue to the dealer or subdealer a license in such form as the Division may prescribe to transact business in the county. The license so issued is not assignable, and is valid only for the dealer or subdealer in whose name issued.

(E) The Division shall keep and file all applications with an alphabetical index thereof, together with a record of all licensed dealers and subdealers.
('90 Code § 5.30.050) (Ord. 123, passed 1976)

§ 11.205 FAILURE TO SECURE LICENSE; DELINQUENCY PENALTY.

(A) If any dealer or subdealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the license required by § 11.204, the license fee shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

(B) The Division shall proceed forthwith to determine, from the best available sources, the amount of such fee, and it shall assess the fee in the amount found due, together with a penalty of 100% of the fee, and shall make its certificate of such assessment and penalty. In any suit or proceeding to collect such fee or penalty or both, the certificate is prima facie evidence that the dealer or subdealer therein named is indebted to the county in the amount of the fee and penalty therein stated.

(C) Any fee or penalty so assessed may be collected in the manner prescribed in § 11.209 with reference to delinquency in payment of the fee or by an action at law, which the Division, through the Attorney General, shall commence and prosecute to final determination at the request of the Division.
('90 Code § 5.30.060) (Ord. 123, passed 1976)

§ 11.206 REVOCATION OF LICENSE.

The Division shall revoke the license of any dealer or subdealer refusing or neglecting to comply with any provision of this subchapter. The Division shall mail by registered mail addressed to such dealer or subdealer at his last known address appearing on the files of the Division, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within ten days from the mailing of the notice the dealer or subdealer has not made good its default or delinquency.
('90 Code § 5.30.070) (Ord. 123, passed 1976)

§ 11.207 CANCELLATION OF LICENSE.

(A) The Division may, upon written request of a dealer or subdealer, cancel any license issued to such dealer or subdealer, the cancellation to become effective 30 days from the date of receipt of the written request.

(B) If the Division ascertains and finds that the person to whom a license has been issued is no longer engaged in the business of a dealer or subdealer, the Division may cancel the license of such dealer or subdealer upon investigation after 30 days' notice has been mailed to the last-known address of the dealer or subdealer.
('90 Code § 5.30.080) (Ord. 123, passed 1976)

§ 11.208 REMEDIES CUMULATIVE.

Except as otherwise provided in §§ 11.209 and 11.211, the remedies provided in §§ 11.205 to 11.207 are cumulative. No action taken pursuant to those sections shall relieve any persons from the penalty provisions of this subchapter.
('90 Code § 5.30.090) (Ord. 123, passed 1976)

§ 11.209 PAYMENT OF FEE AND DELINQUENT PENALTY.

(A) The license fee imposed by §§ 11.201 and 11.202 shall be paid on or before the 25th day of each month to the division which, upon request, shall receipt the dealer or subdealer therefor.

(B) Except as provided in division (D) of this section, to any license fee not paid as required by division (A) of this section there shall be added a penalty of 1% of such license fee.

(C) Except as provided in division (D) of this section, if the fee and penalty required by division (B) of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10% shall be paid in addition to the penalty provided for in division (B) of this section.

(D) If the Division determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by divisions (B) and (C) of this section shall be waived. Penalties imposed by this section shall not apply when the penalty provided in § 11.205 has been assessed.

(E) If any person fails to pay the license fee or any penalty provided for by this subchapter, the amounts thereof shall be collected from such person for the use of the county. The Division, through the Attorney General, shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.

(F) No dealer who collects from any person the fee provided for in this subchapter shall knowingly and wilfully fail to report and pay the same to the Division as required by this subchapter.
('90 Code § 5.30.100) (Ord. 123, passed 1976)

§ 11.210 MONTHLY STATEMENTS REQUIRED.

Every dealer or subdealer in motor vehicle fuel shall render to the Division, on or before the 25th day of each month, on forms prescribed, prepared and furnished by the Division, a signed statement of the number of gallons of motor vehicle fuel sold, distributed or used by him during the preceding calendar month. The statement shall be signed by one of the principal officers, or by an authorized agent in the case of a corporation; or by the managing agent or owner in case of a firm or association. All statements filed with the Division, as required in this section, are public records.
('90 Code § 5.30.110) (Ord. 123, passed 1976)

§ 11.211 FAILURE TO FILE MONTHLY STATEMENT.

If any dealer or subdealer, except one subject to § 11.205, fails to file the report required by § 11.210, the Division shall proceed forthwith to determine from the best available source the amount of motor vehicle fuel sold, distributed or used by such dealer or subdealer for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed or used. The Division immediately shall assess the license fee in the amount so determined, adding thereto a penalty of 10% for failure to report. The penalty shall be cumulative to other penalties provided in this subchapter. In any suit brought to enforce the rights of the county under this section, the certificate of the Division showing the amount of fees, penalties and costs unpaid by any dealer or subdealer and that the same are due and unpaid to the county is prima facie evidence of the facts as shown.
('90 Code § 5.30.120) (Ord. 123, passed 1976)

§ 11.212 BILLING PURCHASERS.

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers or subdealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the Division the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Division are maintained. The bills required hereunder may be the same as or incorporated in those required under ORS 319.210.
('90 Code § 5.30.130) (Ord. 123, passed 1976)

§ 11.213 RECEIPT, PAYMENT OR SALE WITHOUT INVOICE OR DELIVERY TAG PROHIBITED.

No person shall receive and accept any shipment of motor vehicle fuel from any dealer or subdealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer or subdealer in motor vehicle fuel.
('90 Code § 5.30.140) (Ord. 123, passed 1976)

§ 11.214 TRANSPORTING MOTOR VEHICLE FUEL IN BULK.

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of the county with such conveyance,

have and possess during the entire time of his hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any sheriff, deputy sheriff, constable, state police or other officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.
('90 Code § 5.30.150) (Ord. 123, passed 1976)

§ 11.215 EXPORT FUEL EXEMPTED.

(A) The license fee imposed by §§ 11.201 and 11.202 shall not be imposed on motor vehicle fuel:

(1) Exported from the county by a dealer or subdealer; or

(2) Sold by a dealer or subdealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the county in containers other than the fuel tank of a motor vehicle, but every dealer or subdealer shall be required to report such exports and sales to the division in such detail as may be required.

(B) In support of any exemption from license fees claimed under this section other than in the case of stock transfers or deliveries in his own equipment, every dealer or subdealer must execute and file with the Division an export certificate in such form as shall be prescribed, prepared and furnished by the Division, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the county, and giving such details with reference to such shipment as the Division may require. The Division may demand of any dealer or subdealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Division may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

(C) Any motor vehicle fuel carried from the county in the fuel tank of a motor vehicle shall not be considered as exported from the county, except that a refund of the fee may be paid on such fuel as provided in § 11.219.

(D) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the county fee has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the county and fail to notify the Division and the dealer or subdealer from whom the motor vehicle fuel was originally purchased of his act.

(E) No dealer, subdealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the county for sale or use so as to avoid any of the fees imposed by this subchapter.

(F) In support of any exemption from fees on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Division. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.
('90 Code § 5.30.160) (Ord. 123, passed 1976)

§ 11.216 SALES TO ARMED FORCES EXEMPTED.

The license fee imposed by §§ 11.201 and 11.202 shall not be imposed on any motor vehicle fuel sold to the armed forces of the United States for use in ships, aircraft or for export from the county; but every dealer or subdealer shall be required to report such sales to the Division in such detail as may

be required. A certificate by an authorized officer of such armed forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.
('90 Code § 5.30.170) (Ord. 123, passed 1976)

§ 11.217 FUEL IN VEHICLES COMING INTO COUNTY NOT TAXED.

Any person coming into the county in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for his own use only and for the purpose of operating such motor vehicle without securing a license or paying the fee provided in §§ 11.201 and 11.202, or complying with any of the provisions imposed upon dealers by this subchapter, but if the motor vehicle fuel so brought into the county is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person is so importing the fuel into the county and shall be subject to all the provisions in this subchapter applying to dealers.
('90 Code § 5.30.180) (Ord. 123, passed 1976)

§ 11.218 FUEL SOLD OR DELIVERED TO DEALERS OR SUBDEALERS.

(A) A dealer or subdealer selling or delivering motor vehicle fuel to dealers or subdealers is not required to pay a license fee thereon.

(B) The dealer or subdealer in rendering monthly statements to the Division as required by §§ 11.201 and 11.210 shall show separately the number of gallons of motor vehicle fuel sold or delivered to dealers or subdealers.
('90 Code § 5.30.190) (Ord. 123, passed 1976)

§ 11.219 REFUNDS.

(A) Any person who has paid any fees on motor vehicle fuel imposed or directed to be paid under this subchapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of such fee paid by him, except as provided in §§ 11.220 and 11.223, if such person has:

(1) Purchased and used such fuel for the purpose of operating or propelling stationary gas engines, tractors or motorboats if the motorboat is used for commercial purposes at any time during the period for which the refund is claimed;

(2) Purchased and used such fuel for cleaning or dyeing or other commercial use, except when used in motor vehicles operated upon any highway;

(3) Purchased and exported such fuel from the county, in containers other than fuel supply tanks of motor vehicles; or

(4) Purchased and exported such fuel in the fuel supply tank of a motor vehicle and has used such fuel to operate the vehicle upon the highways of another state, if the user has paid to the other state a similar motor vehicle fuel fee or tax on the same fuel, or has paid any other highway use tax the rate for which is increased because such fuel was not purchased in, and the fee or tax thereon paid, to such state.

(B) When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for such equipment or separate tank for such a motor, a refund may be claimed and allowed as provided by division (D) of this section, except as otherwise provided by this division (B), without the necessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equipment. The person claiming the refund may present to the Division a statement of his claim and be allowed a refund as follows:

(1) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other petroleum products by a power takeoff unit on a delivery truck, refund shall be allowed claimant for the fee paid on fuel purchased at the rate of ¾ of one gallon for each 1,000 gallons of petroleum products delivered.

(2) For fuel used in operating a power takeoff unit on a cement mixer truck or on a garbage truck, claimant shall be allowed a refund of 25% of the fee paid on all fuel used in such a truck.

(C) When a person purchases and uses motor vehicle fuel in a vehicle equipped with a power takeoff unit, a refund may be claimed for fuel used to operate the power takeoff unit provided the vehicle is equipped with a metering device approved by the Division and designed to operate only while the vehicle is stationary and the parking brake is engaged; the quantity of fuel measured by the metering device shall be presumed to be the quantity of fuel consumed by the operation of the power takeoff unit.

(D) Before any such refund may be granted, the person claiming such refund must present to the Division a statement accompanied by copies of the original invoices showing such purchases; provided that in lieu of such invoices, refunds submitted under division (A)(4) of this section shall be accompanied by information showing source of fuel used and evidence of payment of fee or tax to the state in which the fuel was used. The statement shall be made over the signature of the claimant, and shall state the total amount of such fuel for which is entitled to be reimbursed under division (A) of this section. The Division, upon the presentation of the statement and invoices, or other required documents, shall cause to be repaid to the claimant from the fees collected on motor vehicle fuel such fees so paid by the claimant.
('90 Code § 5.30.200) (Ord. 123, passed 1976)

§ 11.220 LIMITATION ON APPLICATIONS FOR REFUNDS.

Applications for refunds made under §§ 11.219 and 11.223 to 11.227 must be filed with the Division before the expiration of 15 months from the date of purchase or invoice, except that unused fuel reported as an ending inventory on any claim may be included in a subsequent claim if presented not later than 15 months from the filing date of the claim which established the inventory. All applications for refunds based upon exportation of motor vehicle fuel from this state in the fuel supply tank of a motor vehicle must be filed with the Division before the expiration of 15 months from the last day of the month in which the fuel was used, or before the expiration of 15 months from the date of an assessment for unpaid fee or tax by the state in which the fuel was used.
('90 Code § 5.30.210) (Ord. 123, passed 1976)

§ 11.221 SELLER TO GIVE INVOICE FOR EACH PURCHASE MADE BY PERSON ENTITLED TO REFUND.

(A) When motor vehicle fuel is sold to a person who claims to be entitled to a refund of the fee imposed, the seller of the motor vehicle fuel shall make and deliver at the time of the sale separate invoices for each purchase in such form and containing any information prescribed by the Division.

(B) The invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. Any person who alters any part of any invoice that will tend to give to the claimant an illegal gain, shall have the entire claim invalidated. The seller shall for a period of at least 18 months retain copies of all invoices and make them available to the Division upon request.

(C) The invoices required by this section may be the same as or incorporated in those required under ORS 319.300.
('90 Code § 5.30.220) (Ord. 123, passed 1976)

§ 11.222 CLAIMS FOR REFUNDS; INVESTIGATION.

(A) The Division may require any person who makes claim for refund of fee on motor vehicle fuel to furnish a statement, under oath, giving his occupation, description of the machines or equipment in which the motor vehicle fuel was used, the place where used and such other information as the Division may require.

(B) The Division may investigate claims and gather and compile such information in regard to the claims as it considers necessary to safeguard the county and prevent fraudulent practices in connection with fee refunds and evasions. The Division may, in

order to establish the validity of any claim, examine the books and records of the claimant for such purposes. The records shall be in such form and contain such information as the Division may require. Failure of the claimant to maintain such records or to accede to the demand for such examination constitutes a waiver of all rights to the refund claimed on account of the transaction questioned.
('90 Code § 5.30.230) (Ord. 123, passed 1976)

§ 11.223 REFUND OF FEE ON FUEL USED IN OPERATION OF VEHICLES OVER CERTAIN ROADS OR PRIVATE PROPERTY.

(A) Except where a refund is authorized by §§ 11.225 or 11.226, upon compliance with division (B) or (C) of this section the Division shall refund, in the manner provided in division (B) or (C) of this section, the fee on motor vehicle fuel that is used in the operation of a motor vehicle:

(1) By any person on any road, thoroughfare or property in private ownership.

(2) By any person on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of any agency named in divisions (A)(2)(a), (b) or (c) of this section.

(3) By an agency of the United States or of the state or any county, city or port of the state on any road, thoroughfare or property, other than a state highway, county road or city street.

(4) By any person on any county road for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if: .

(a) The use of the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such person to use such road and requiring such person to pay for or to perform the construction or maintenance of the county road;

(b) The Board, officer or agency that entered into the agreement or granted the permit, by contract with the County Court or Board, has assumed the responsibility for the construction or maintenance of such county road; and

(c) Copies of the agreements or permits required by divisions (A)(4)(a) and (b) of this section are filed with the Division.

(B) Except for a farmer subject to division (C) of this section, the person or agency, as the case may be, who has paid any fee on such motor vehicle fuels imposed or directed to be paid, as provided by this subchapter, is entitled to claim a refund of the fee so paid on such fuels or for the proportionate part of the fee paid on fuels used in the operation of such vehicles, when part of the operations are over such road, thoroughfares or property. The proportionate part shall be based upon the number of miles traveled by any such vehicle over such roads, thoroughfares or property as compared to the total number of miles traveled by such vehicle. To be eligible to claim such refund the person or agency, as the case may be, shall first establish and maintain a complete record of the operations, miles traveled, gallons of fuel used and other information, in such form and in such detail as the Division may prescribe and require, the source of supply of all fuels purchased or used, and the particular vehicles or equipment in which used. Whenever any such claim is received and approved by the Division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(C) A farmer who has paid any fee on motor vehicle fuels imposed or directed to be paid, as provided by this subchapter, is entitled to claim a refund of the fee paid on such fuels used in farming operations in the operation of any motor vehicle on any road, thoroughfare or property in private ownership. To be eligible to claim such refund a farmer shall maintain in such form and in such detail as the Division may prescribe and require, a record, supported by purchase invoices, of all such motor vehicle fuel purchased (including fuel purchased to operate any motor vehicle on the highway) and, for each and every motor vehicle operated on the highway, a record of all fuel used and of all miles traveled on the highway. Whenever any such claim is received and approved by the Division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(D) As used in divisions (B) and (C) of this section, ***FARMER*** includes any person who manages or conducts a farm for the production of livestock or crops but does not include a person who manages or conducts a farm for the production of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or of forest trees unless the production of such forest products or forest trees is only incidental to the primary purpose of the farming operation.
('90 Code § 5.30.240) (Ord. 123, passed 1976)

§ 11.224 REFUNDS TO PURCHASERS OF FUEL FOR AIRCRAFT.

Whenever any statement and invoices are presented to the Division showing that motor vehicle fuel has been purchased and used in operating aircraft engines and upon which the fee on motor vehicle fuel has been paid, the Division shall refund the fee paid.
('90 Code § 5.30.250) (Ord. 123, passed 1976)

§ 11.225 REFUNDS TO COUNTIES AND ROAD ASSESSMENT DISTRICTS.

Any county or road assessment district formed under ORS 371.405 to 371.535, which buys and uses any motor vehicle fuel for the purpose of operating or propelling road maintainers, graders, tractors, trucks and other equipment used in the construction and maintenance of public highways and which has paid any fee on motor vehicle fuel imposed or directed to be paid under this chapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by the county or road assessment district as provided by §§ 11.219 through 11.224 of this subchapter if such machinery is used exclusively for the maintenance and construction of such public highways.
('90 Code § 5.30.260) (Ord. 123, passed 1976)

§ 11.226 REFUNDS TO STATE, COUNTIES, AND CITIES.

(A) The state, counties and any city, by its proper officer or officers, may secure from the county a refund of any and all fees imposed and collected by the county on any motor vehicle fuel purchased and used by the state, counties, or such city.

(B) The Division may establish rules necessary to safeguard the county in the matter of the fee refunds authorized in this section. Noncompliance with any of such rules by the state or any incorporated city or town claiming refund under this section is grounds for refusal by the Division to allow such claims.

(C) The procedure for refund of fees provided by §§ 11.219 through 11.224 of this subchapter shall apply insofar as applicable to claims for the refunds authorized by this section.
('90 Code § 5.30.270) (Ord. 123, passed 1976; Ord. 842, passed 1995)

§ 11.227 REFUND OF FEE ON FUEL USED IN TRANSPORTATION OF RURAL MAIL.

(A) All fees collected by the county on the sale, use or distribution of any motor vehicle fuel used exclusively in the transportation of rural free delivery

mail or special delivery mail of the United States shall be refunded to the person paying the fee if the person is engaged solely and exclusively in the transportation of rural free delivery mail or special delivery mail of the United States.

(B) Any person engaged solely and exclusively in transportation of rural free delivery or special delivery mail of the United States, who buys any motor vehicle fuel and uses it exclusively in the transportation of rural free delivery mail or special delivery mail of the United States, and who has paid any fee on motor vehicle fuel, either directly by the collection of the fee by the vendor from the consumer or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by him upon presenting to the Division a statement accompanied by the original invoice showing the purchase. The statement shall be made over the signature of the claimant and shall state the total amount of fuel so purchased and used by the consumer for the transportation of rural free delivery mail or special delivery mail of the United States. The Division, upon the presentation of the statement and the voucher, shall cause to be repaid to the consumer, from the fees collected on motor vehicle fuels, the fees so paid by the consumer on motor vehicle fuels so used.
('90 Code § 5.30.280) (Ord. 123, passed 1976)

§ 11.228 EXAMINATIONS AND INVESTIGATIONS; CORRECTION OF REPORTS.

The Division may make any examination of the accounts, records, stocks, facilities and equipment of dealers, subdealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this county, and such other investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers, subdealers or other persons filed with the Division pursuant to the requirements of this chapter, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the fee accruing, the Division may make such changes in subsequent reports and payments of such dealers, subdealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.
('90 Code § 5.30.290) (Ord. 123, passed 1976)

§ 11.229 LIMITATION ON CREDIT FOR OR REFUND OF OVERPAYMENT AND ON ASSESSMENT OF ADDITIONAL FEE.

(A) Except as otherwise provided in this subchapter, any credit for erroneous overpayment of fee made by a dealer or subdealer taken on a subsequent return or any claim for refund of fee erroneously overpaid filed by a dealer or subdealer must be taken or filed within three years after the date on which the overpayment was made to the county.

(B) Except in the case of a fraudulent report or neglect to make a report, every notice of additional fee proposed to be assessed under this subchapter shall be served on dealers and subdealers within three years from the date upon which such additional fees become due.
('90 Code § 5.30.300) (Ord. 123, passed 1976)

§ 11.230 EXAMINING BOOKS AND ACCOUNTS OF CARRIER OF MOTOR VEHICLE FUEL.

The Division may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the county for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of fees in enforcing the provisions of this chapter.
('90 Code § 5.30.310) (Ord. 123, passed 1976)

§ 11.231 RECORDS TO BE KEPT BY DEALERS.

Every dealer or subdealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the Division of all purchases, receipts, sales and distribution of motor fuel. The records shall include

copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the Division or its designees.
('90 Code § 5.30.320) (Ord. 123, passed 1976)

§ 11.232 RECORDS TO BE KEPT THREE YEARS.

Every dealer and subdealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the county by such dealer or subdealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Division. In the event such records are not kept within the state, the dealer or subdealer shall reimburse the Division for all travel, lodging and related expenses incurred by the Division in examining such records. The amount of such expenses shall be an additional fee imposed under this chapter.
('90 Code § 5.30.330) (Ord. 123, passed 1976)

§ 11.233 USE OF FEE.

(A) Except as provided by division (B) of this section the fees collected under this subchapter, after deducting the costs of administration and collection, shall be used by the county solely for the purposes prescribed by the state constitution for the use of taxes upon motor vehicle fuel; but may be shared by agreement with a city or cities situated in whole or in part within its boundaries for those purposes.

(B) (1) On or before August 15 of each year, the Director of the Department of Environmental Services shall determine as accurately as possible the amount of the motor vehicle fuel tax imposed under §§ 11.201 through 11.218 of this subchapter during the preceding fiscal year with respect to fuel purchased and used to operate or propel motorboats. The amount determined shall be reduced by the amount of any refunds for motorboats used for commercial purposes actually paid during the preceding year on account of § 11.219(A)(1) of this subchapter.

(2) The amount of the estimate made under division (B)(1) of this section as reduced by refunds shall be transferred to Metro on or before September 30 of each year to be used solely for the acquisition, development, administration, operation, and maintenance of any Metro-owned or operated facility which was transferred by the county to Metro.

(3) The county is authorized to enter onto an agreement with the Department of Transportation of the state to administer, collect and deposit all revenue due under this chapter. The Department of Transportation may be reimbursed for its administrative costs from the funds collected pursuant to this chapter.
('90 Code § 5.30.340) (Ord. 123, passed 1976; Ord. 273, passed 1981; Ord. 588, passed 1988; Ord. 862, passed 1996)

MOTOR VEHICLE RENTAL TAX

§ 11.300 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

COMMERCIAL ESTABLISHMENT. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee.

DIRECTOR. The Finance Director of the county.

DOING BUSINESS IN THE COUNTY. Any of the following conduct by a commercial establishment whose business address is within or outside the county:

(1) Delivery of a rented vehicle to a location within the county for use by a person within the county; or

(2) Presenting for execution within the county by any person a car rental agreement.

EXEMPTION AREA. Multnomah, Washington and Clackamas Counties.

MOTOR VEHICLE. Without limitation, automobiles, trucks having a manufacturer's gross vehicle weight not exceeding 24,000 pounds, motor homes, motorcycles, pickup campers and any motorized passenger vehicles designed to carry fewer than ten persons, which are capable of being used on the highways of the state.

RENTAL FEE. The gross fee and charges, whatever the basis of their calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

RENTAL or ***RENTING.*** Obtaining in the county the use of a motor vehicle from a commercial establishment in the county for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity.
('90 Code § 5.40.010) (Ord. 122, passed 1976; Ord. 407, passed 1983; Ord. 417, passed 1984; Ord. 519, passed 1986; Ord. 627, passed 1989; Ord. 849, passed 1996)

§ 11.301 IMPOSITION OF TAX.

(A) A tax is imposed on every person renting a motor vehicle from a commercial establishment doing business in the county, if the rental is for a period of 30 days or less. A rental shall have a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 days or less.

(B) The rate of the tax imposed by division (A) of this section shall be equal to 10% of the rental fee charged by the commercial establishment for the rental.

(C) If, with respect to any rental fee, the tax imposed under this section does not equal an amount calculable to a whole cent, the commercial establishment shall charge a tax equal to the next highest whole cent, provided, however, that the amount remitted to the Director by the commercial establishment for each quarter shall be equal only to 10% of the total rental fees collected by the commercial establishment during the quarter.
('90 Code § 5.40.050) (Ord. 122, passed 1976; Ord. 407, passed 1983; Ord. 849, passed 1996) Penalty, see § 11.399

§ 11.302 COLLECTION OF TAX; REMITTANCE RECORDS; TAX AS DEBT.

(A) The tax imposed by § 11.301 of this subchapter shall be collected by the commercial establishment at the time it collects a rental fee.

(B) On or before the last business day of January, April, July and October of each year, each commercial establishment shall remit to the Director all taxes collected during the preceding calendar quarter. The remittance shall be accompanied by a report showing:

(1) The amount of the rental fees collected by the commercial establishment during the preceding quarter;

(2) The amount, if any, of those rental fees which is attributable to and identified on the records or billings of the commercial establishment as being for gasoline sales;

(3) Such further information as the Director may prescribe;

(4) The report and all such additional information as required from the commercial establishment accompanying remittance of the collected tax shall be exempt from public disclosure and remain confidential in the possession of the Director.

(C) All commercial establishments shall maintain accurate records of rental fees assessed and of taxes collected, and such records shall be subject to review, inspection and audit within the county by the Director or the director's designee at all reasonable times.

(D) In the case of motor vehicle rentals which originate in the county but for which the rental fee is collected at some other location, the commercial establishment which provided the vehicle in the county shall be responsible for remittance of the tax, based on the total rental fee, wherever collected, as well as maintenance of the appropriate records of the fees.

(E) The amount of tax required to be collected under § 11.301 of this subchapter shall be a debt owed by the commercial establishment to the county until remitted under this section.
('90 Code § 5.40.075) (Ord. 122, passed 1976; Ord. 407, passed 1983; Ord. 592, passed 1988; Ord. 849, passed 1996) Penalty, see § 11.399

§ 11.303 TAX EVASION OR DEFICIENCY DETERMINATION.

(A) If the Director determines that the report required in § 11.302(B) of this subchapter has not been filed or is incorrect, the Director may compute and determine the amount required to be paid upon the basis of the facts contained in any report or reports, or upon the basis of any information within his/her possession or that may come into his/her possession. One or more deficiency or evasion determinations may be made of the amount due for one, or more than one, period and the amount so determined shall be due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies shall be applied under § 11.399 of this chapter.

(B) In making a determination, the Director may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. Interest on underpayments shall accrue at the rate of one percent per month pro rata from the date the tax became delinquent until the date paid.

(C) The Director shall give written determination notice to the commercial establishment, served personally or by certified mail. If mail service is employed, service is deemed made upon mailing.

(D) Except where fraud or intent to evade this chapter exists, every deficiency determination shall be made and notice given within three years after the last day of the month following the close of the quarterly reporting period for which the amount is proposed to be determined, or within three years after the report reflecting an underpayment is filed, whichever period expires later.
('90 Code § 5.40.080) (Ord. 407, passed 1983; Ord. 592, passed 1988; Ord. 849, passed 1996) Penalty, see § 11.399

§ 11.304 USE OF TAX BY COUNTY.

The taxes collected under this subchapter shall be general fund revenue of the county, except that the portion of taxes attributable to gasoline sales shall be subject to the limitations on use prescribed by the constitution and laws of the state.
('90 Code § 5.40.100) (Ord. 122, passed 1976)

§ 11.305 EXEMPTIONS.

The tax imposed hereby shall not be applicable to:

(A) A rental fee which state or federal law exempts from the tax.

(B) A rental fee for a motor vehicle to be used for official governmental business by an employee of the federal government.

(C) A motor vehicle rented by a resident of the exemption area to temporarily replace a vehicle being repaired or serviced.
('90 Code § 5.40.125) (Ord. 122, passed 1976; Ord. 592, passed 1988; Ord. 627, passed 1989)

§ 11.306 LICENSE REQUIRED.

Every commercial establishment shall be required to obtain from the Director a one-time only, non-transferable, non-renewable license for its operation in the county. A license shall be required for each site within the county. The Director shall collect a fee in an amount set by Board resolution for each license issued.
('90 Code § 5.40.150) (Ord. 122, passed 1976; Ord. 407, passed 1983; Ord. 592, passed 1988; Ord. 849, passed 1996) Penalty, see § 11.399

§ 11.307 DIRECTOR'S RULES.

The Director is authorized to establish rules and procedures for the implementation and enforcement of this subchapter.
('90 Code § 5.40.175) (Ord. 122, passed 1976)

§ 11.399 PENALTY.

(A) In addition to any other penalties prescribed by law, any commercial establishment which fails to collect and remit all taxes collected by it or otherwise fails to comply with this subchapter shall be subject to a penalty equal to 50% of any deficiency in the taxes remitted by it, or to such lesser penalty as the director may assess.

(B) The penalty imposed by division (A) of this section shall be a debt owed by the commercial establishment to the county.

(C) Any person who willfully violates any provision of this subchapter shall, upon conviction, be subject to a fine of not more than $500, imprisonment in the county jail for not more than six months, or both.
('90 Code § 5.40.900) (Ord. 122, passed 1976)

TRANSIENT LODGINGS TAX

§ 11.400 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ACCRUAL ACCOUNTING. An accounting method whereby the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.

CASH ACCOUNTING. An accounting method whereby the operator does not enter the rent due from a transient on the records until rent is paid.

HOTEL. Any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space in mobile home or trailer parks, or similar structure or space or portions thereof so occupied, provided such occupancy is for less than a 30-day period.

OCCUPANCY. The use or possession, or the right to use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

OPERATOR. The person who is proprietor of the hotel in any capacity. Where the operator performs functions through a managing agent of any

type or character other than an employee, the managing agent shall also be considered an operator for the purposes of this subchapter and shall have the same duties and liabilities as the principal. Compliance with the provisions of this subchapter by either the principal or the managing agent shall be considered to be compliance by both.

RENT. The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

RENT PACKAGE PLAN. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this subchapter shall be the same charge made for rent when not a part of a package plan.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The Finance Director of the county.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, shall not be considered transient.
('90 Code § 5.50.010) (Ord. 56, passed 1972; Ord. 593, passed 1988; Ord. 790, passed 1994)

§ 11.401 TAX IMPOSED.

For the privilege of occupancy in any hotel in the county, each transient shall pay a tax in the amount of 8% of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county which is extinguished only by payment by the operator to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall record the tax when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks. Proceeds of the tax shall be allocated as provided for in divisions (A) and (B) of this section.

(A) Five-eighths of the proceeds of the 8% tax imposed by this section of the county code shall be allocated to the county general fund, and shall be available for any purposes for which expenditures from the general fund are authorized.

(B) Three-eighths of the proceeds from the tax imposed by this section of the county code shall be allocated to the Transient Lodging Tax Fund.

(1) For the purpose of this subdivision, the following definitions shall apply unless the context requires a different meaning.

CULTURAL TOURISM. A program or programs to attract visitors to the Portland area for the purpose of attending cultural and recreational events and exhibits.

FACILITIES. The Oregon Convention Center, the Portland Center for the Performing Arts, the Exposition Center, the Civic Stadium, and neighborhood arts programs.

NEIGHBORHOOD ARTS. Arts programs aimed at increased community and educational exposure to arts and involvement in artistic endeavors to enhance the quality of life in the region thus increasing tourism and increasing long term support for cultural programs.

OPERATING EXPENSES. The total cost of all labor, benefits, overhead, maintenance, materials and services incurred by the operator or operators of the facilities in encouraging attendance, administering, and operating events held in the facilities and in obtaining events to be held there or as part of the neighborhood arts programs.

(2) Before paying the tax imposed by this chapter, as required by § 11.407 of this subchapter, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Transient Lodging Tax Fund. This 5% may be retained by the operator as reimbursement for the operator's expenses in collecting the tax imposed by this subchapter.

(3) Provided that the owners of the Metro and City of Portland facilities continue to maximize economies of scale and other management efficiencies by operating these facilities under a unified regional management organization, the county will pay from the proceeds of the tax that is allocated to the Transient Lodging Tax Fund:

(a) For the operation of the Oregon Convention Center, $3,800,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the greater of the change in the Portland SMSA CPI or the overall change in the proceeds of the tax; provided, however, that in the event that the overall increase in the proceeds of the tax in any given year exceed 7%, any additional funds beyond the 7% increase shall be allocated as specified in subsection (e) of this division.

(b) For the operation of the Portland Center for the Performing Arts, $1,200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the Portland SMSA CPI or the overall change in the proceeds of the tax;

(c) For a program or programs for cultural tourism, to be administered by the unified management organization operating the Portland Center for the Performing Arts through a contract with the Portland Oregon Visitor's Association, and in collaboration with the Regional Arts and Culture Council, $200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the Portland SMSA CPI or the overall change in the proceeds of the tax;

(d) To the Regional Arts and Culture Council, any remaining balance up to $200,000 of the proceeds of the tax after the payments in subsections (a) through (c) are made, to be allocated as follows:

1. $100,000 for neighborhood arts;

2. $100,000 to broaden participation in and visitorship to the region's cultural and artistic assets by residents of outlying areas of the greater Portland metropolitan region.

(e) Any remaining balance of the proceeds from the tax after the payments in subsections (a) through (e) are made shall be allocated towards replacement, renewal, expansion, and other capital needs of the facilities managed jointly under the regional management organization, on an as-needed basis to be determined by the regional management organization.

(f) To the operator of the Oregon Convention Center any remaining balance of the proceeds from the tax after the payments in subsections (a) through (e) are made.

(6) Earnings on proceeds allocated to the Transient Lodging Tax Fund shall be credited to the Transient Lodging Tax Fund.

(7) The amounts specified in subsection (5) above, shall be subject to review by the Board every five years.

(8) The tax imposed by this section is separate and independent of the tax imposed by § 11.402 of this subchapter. Nothing in this section is intended or should be construed as modifying the 1% tax provided for by § 11.402 of this subchapter.

(9) Notwithstanding § 11.419 of this subchapter no person subject to the tax imposed under this section shall be entitled to a credit against the payment of that portion of the tax allocated to the Transient Lodging Tax Fund. The three-eighths of the 8% tax imposed by this section that is allocated to the Transient Lodging Tax Fund shall be due and payable in accordance with this chapter regardless of the amount due any incorporated city or town within the county for a transient lodgings tax for the same occupancy made taxable under this chapter.
('90 Code § 5.50.050) (Ord. 56, passed 1972; Ord. 488, passed 1985; Ord. 501, passed 1986; Ord. 569, passed 1988; Ord. 790, passed 1994; Ord. 811, passed 1995; Ord. 845, passed 1996; Ord. 870, passed 1996) Penalty, see § 11.499

§ 11.402 TAX SURCHARGE.

For the privilege of occupancy in any hotel in the county, each transient shall pay a tax in the amount of 1% of the rent charged by the operator, which tax shall be in addition to the tax imposed by § 11.401(A). The tax constitutes a debt owed by the transient to the county, which is extinguished only by payment by the operator to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishings of rooms, accommodations, and space occupancy in mobile home parks or trailer parks. County revenues from the tax imposed by this section, after providing for the cost of administration and any refunds or credits authorized by ordinance, shall be used exclusively for contracting with private organizations for the promotion, solicitation, procurement, and service of convention business and tourism into the county.
('90 Code § 5.50.055) (Ord. 171, passed 1978; adopted by people 11-7-78) Penalty, see § 11.499

§ 11.403 COLLECTION OF TAX BY OPERATOR.

(A) Every operator renting rooms or space for lodging or sleeping purposes in this county, the occupancy of which is not exempted under the terms of this subchapter, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the county.

(B) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

(C) The tax administrator shall enforce provisions of this subchapter and shall have the power to adopt rules not inconsistent with this chapter as may be necessary to aid in the enforcement.

(D) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.
('90 Code § 5.50.075) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.404 OPERATOR'S DUTIES.

Each operator shall collect the tax imposed by this subchapter at the same time the rent is collected from each transient. The amount of tax shall be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.
('90 Code § 5.50.100) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.405 EXEMPTIONS.

No tax imposed under this chapter shall be imposed upon:

(A) Any occupant for more than 30 successive calendar days;

(B) Any person who pays for lodging on a monthly basis, irrespective of the number of days in any month;

(C) Any occupant whose rent is of a value less than $2 per day;

(D) Any person who rents a private home, vacation cabin or similar facility from any owner who rents the facility incidentally to the owner's own use of it;

(E) Any federal government employee renting a room for official governmental business; or

(F) Any persons renting and occupying a space in a recreational vehicle park or campground. ('90 Code § 5.50.125) (Ord. 56, passed 1972; Ord. 593, passed 1988)

§ 11.406 REGISTRATION OF OPERATOR; CERTIFICATION OF AUTHORITY.

(A) Every person engaging or about to engage in business as an operator of a hotel in the county shall register with the tax administrator on a form provided by the administrator. Operators starting businesses must register within 15 calendar days after commencing business.

(B) The privilege of registration after the date of imposition of the transient lodgings tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.

(C) Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information as the tax administrator may require to facilitate the collection of the tax. The registration shall be signed by the operator.

(D) The tax administrator shall, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, with a duplicate for each additional place of business of each registrant.

(E) Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer.

(F) Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed there so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(G) The certificate shall, among other things, state the following:

(1) The name of the operator;

(2) The address of the hotel;

(3) The date upon which the certificate was issued; and

(4) A notice reading as follows:

> This Transient Occupancy Registration Certificate signifies that the person named on the face has fulfilled the requirements of the Transient Lodgings Tax Ordinance of the Multnomah County, Oregon, by the registration with the tax administrator for the purpose of collecting from transients the lodgings tax imposed by said county and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel

without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the county. This certificate does not constitute a permit.

('90 Code § 5.50.150) (Ord. 56, passed 1972)

§ 11.407 DUE DATE; RETURNS AND PAYMENTS.

(A) The tax imposed by this subchapter shall be paid by the transient to the operator at the time that the rent is paid. All taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this subchapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.

(B) On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

(C) Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, the gross receipts of the operator for the period, an explanation in detail of any discrepancy between those amounts and the rents exempt, if any.

(D) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(E) For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted except by the Committee. Any operator to whom an extension is granted shall pay interest at the rate of 1% per month on the amount of tax due without proration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, the interest shall become part of the tax for computation of penalties described in § 11.420 of this subchapter.

(F) If the tax administrator considers it necessary in order to insure payment or facilitate collection by the county of the amount of taxes in any individual case, he or she may require returns and payment of the amount of taxes for other than quarterly periods.

('90 Code § 5.50.175) (Ord. 56, passed 1972; Ord. 593, passed 1988) Penalty, see § 11.499

§ 11.408 TAX DEFICIENCY DETERMINATION.

(A) The tax administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of other information. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies shall be applied under § 11.420 of this subchapter.

(B) In making a determination the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed under § 11.420 of this subchapter.

(C) The tax administrator shall give to the operator or occupant a written notice. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator as it appears on the records of the tax administrator. In case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States post office.

(D) Except in the case of fraud or intent to evade this chapter or authorized rules, every deficiency determination shall be made and notice mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(E) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the tax administrator has given notice. The operator may petition redemption and refund if the petition is filed before the determination becomes final.
('90 Code § 5.50.200) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.409 FRAUD; REFUSAL TO COLLECT; EVASION.

If any operator shall fail or refuse to collect the tax or to make within the time provided in this subchapter any report and remittance of the tax or any portion required by this subchapter, or makes a fraudulent return or otherwise wilfully attempts to evade this chapter, the tax administrator shall obtain facts and information on which to base an estimate of the tax due. The tax administrator shall proceed to determine and assess against the operator the tax, interest and penalties provided for by this subchapter. The tax administrator shall give a notice in the manner provided in § 11.408 of this subchapter of the amount assessed. The determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file a return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the tax administrator has given notice. The operator may petition for redemption and refund if the petition is filed before the determination becomes final.
('90 Code § 5.50.225) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.410 OPERATOR DELAY.

If the tax administrator believes that the collection of any tax required to be collected and paid to the county will be jeopardized by delay, or if any determination will be jeopardized by delay, the tax administrator shall determine the amount of tax required to be collected, noting the fact upon the determination. The amount so determined shall be immediately due and payable, and the operator shall immediately pay the determination to the tax administrator after service of notice. The operator may petition, after payment has been made, for redemption and refund of the determination, if the petition is filed within ten days from the date of service of notice by the tax administrator.
('90 Code § 5.50.250) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.411 REDETERMINATIONS.

(A) Any person against whom a determination is made under §§ 11.408 through 11.410 of this subchapter or any person directly interested may petition for a redetermination and redemption and refund within the time required in §§ 11.408 through 11.410 of this subchapter. If a petition for redetermination and refund is not filed within that time, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination and refund is filed within the allowable period the tax administrator shall reconsider the determination, and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give ten days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

(C) The tax administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined the increase shall be payable immediately after the hearing.

(D) The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final ten days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the tax administrator within the ten days after service of notice.

(E) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions of this chapter.
('90 Code § 5.50.275) (Ord. 56, passed 1972; Ord. 790, passed 1994) Penalty, see § 11.499

§ 11.412 SECURITY FOR COLLECTION OF TAX.

(A) The tax administrator may require any operator to deposit such security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, determined in such manner as the tax administrator considers proper, or $5,000, whichever is less. The amount of the security may be increased or decreased by the tax administrator subject to the limitations of this subsection.

(B) At any time within three years after any tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the county to collect the amount delinquent together with penalties and interest.
('90 Code § 5.50.300) (Ord. 56, passed 1972)

§ 11.413 RECORDS MAINTAINED BY OPERATOR; ADMINISTRATOR EXAMINATION.

(A) Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

(B) The tax administrator may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
('90 Code § 5.50.325) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.414 CONFIDENTIAL CHARACTER OF INFORMATION; DISCLOSURE PROHIBITED.

It shall be unlawful for the tax administrator or any person having an administrative or clerical duty under the provisions of this subchapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Nothing in this section shall be construed to prevent:

(A) The disclosure to, or the examination of records and equipment to another the county official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this subchapter, including the collection of taxes.

(B) The disclosure, after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties. The District Attorney shall approve each disclosure and the tax administrator may refuse to make any disclosure when in his opinion the public interest would suffer thereby.

(C) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

(D) The disclosure of general statistics regarding taxes collected or business done in the county.
('90 Code § 5.50.350) (Ord. 56, passed 1972) Penalty, see § 11.499

§ 11.415 APPEALS TO BOARD.

Any person aggrieved by any decision of the tax administrator may appeal to the Board by filing a notice of appeal with the tax administrator within ten days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator shall transmit the notice of appeal, together with the file of the appealed matter to the Chair, who shall fix a time and place for hearing the appeal from the decision. The Chair shall give the appellant not less than ten days' prior written notice of the time and place of hearing on the appealed matter.
('90 Code § 5.50.475) (Ord. 56, passed 1972; Ord. 593, passed 1988; Ord. 790, passed 1994)

§ 11.416 REFUNDS BY COUNTY TO OPERATOR.

Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this subchapter, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due from the operator from whom it was collected or by whom paid and the balance may be refunded to the operator.
('90 Code § 5.50.500) (Ord. 56, passed 1972)

§ 11.417 REFUNDS BY COUNTY TO TRANSIENT.

Whenever the tax required by this subchapter has been collected by the operator and deposited by the operator with the tax administrator, and it is later determined that the tax was erroneously or illegally collected or received by the tax administrator it may be refunded by the tax administrator to the transient. A verified claim in writing, stating the specific reason on which the claim is founded, must be filed with the tax administrator within three years from the date of payment.
('90 Code § 5.50.525) (Ord. 56, passed 1972)

§ 11.418 REFUNDS BY OPERATOR TO TENANT.

Whenever the tax required by this subchapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator shall refund to the tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for the collection and refund to the tax administrator. If the operator has remitted the tax prior to refund or credit to the tenant he shall be entitled to a corresponding refund under § 11.416 of this subchapter.
('90 Code § 5.50.550) (Ord. 56, passed 1972)

§ 11.419 CREDIT AGAINST CITY TAX.

Any person subject to the payment or collection of a tax under this subchapter shall be entitled to a

credit against the payment of the tax in the amount due any city within the county for a transient lodgings tax for the same occupancy made taxable under this chapter.
('90 Code § 5.50.575) (Ord. 56, passed 1972)

§ 11.420 DELINQUENCY AND INTEREST.

(A) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this subchapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(B) Any operator who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) If the tax administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade its provisions, a penalty of 25% of the amount of the tax shall be added to the penalties stated in divisions (A) and (B) of this section.

(D) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this subchapter shall pay interest at the rate of .5% per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(E) Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax required to be paid.

(F) Any operator who fails to remit the tax levied within the time required by this subchapter shall pay the penalties, provided, however, the operator may petition the tax administrator for waiver and refund of the penalty or any portion thereof and the tax administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.
('90 Code § 5.50.900) (Ord. 56, passed 1972; Ord. 593, passed 1988; Ord. 790, passed 1994) Penalty, see § 11.499

§ 11.421 OREGON CONVENTION CENTER COMPLETION TAX.

(A) For the privilege of occupancy in any hotel in the county, after voters have approved issuance of general obligation bonds to finance or partially finance completion of the Oregon Convention Center, each transient shall pay a tax in the amount of 0.5% of the rent charged by the operator, which tax shall be in addition to the taxes imposed under this subchapter. The tax constitutes a debt owed by the transient to the county, which is extinguished only by payment by the operator to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis, and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installment, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishings of rooms, accommodations, and space occupancy in mobile home parks or trailer parks. County revenues from the tax imposed by this section, after providing for the cost of administration and any refunds or credits authorized by ordinance, shall be allocated to the Oregon Convention Center Completion Fund, which is hereby created, and used exclusively for the repayment of financing for the completion of the Oregon Convention Center.

(B) The Oregon Convention Center Completion Fund is subject to the following limitations:

(1) As used in this section:

LEAD AGENCY. Metro or its lawful successor.

THE OREGON CONVENTION CENTER. That convention, trade show, and visitor facility located at 777 NE Martin Luther King, Jr. Boulevard, Portland, Oregon.

VOTERS. The qualified electors of the county or district requesting authorization to issue general obligation bonds to finance or partially finance construction of the completion of the Oregon Convention Center.

(2) Before paying the tax imposed by this subchapter, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Oregon Convention Center Completion Fund. This 5% of the amount attributable to the Oregon Convention Center Completion Fund may be retained by the operator as reimbursement for the operator's expenses in collecting the tax imposed by this subchapter.

(3) Earnings on proceeds allocated to the Oregon Convention Center Completion Fund shall be credited to the Oregon Convention Center Completion Fund.

(4) The tax imposed by this section is separate and independent of the other taxes imposed under this subchapter. Nothing in this section is intended or should be construed as modifying the taxes provided for by this subchapter.

(5) The tax authorized by this section shall terminate upon the completion of payment obligation and retirement of all bonds issued to finance completion of the original design of the Oregon Convention Center that are in whole or part secured by the tax imposed hereunder.
(Ord. 893, passed 1997)

§ 11.499 PENALTY.

Any operator or other person who fails or refuses to register as required by this subchapter, or who fails or refuses to furnish any return, supplemental return or other data required by this subchapter or by the tax administrator, or, with intent to defeat or evade the determination or any amount due under this subchapter, makes, renders, signs or verifies any false or fraudulent report, commits an offense which constitutes a violation of this subchapter punishable by fine in an amount to be fixed by the court, not exceeding $250. ('90 Code § 5.50.990) (Ord. 56, passed 1972)

BUSINESS INCOME TAX

§ 11.500 TITLE.

This subchapter may be known and cited as the county Business Income Tax Law.
('90 Code § 5.60.005) (Ord. 768, passed 1993)

§ 11.501 TAXES FOR REVENUE.

The Board of the County Commissioners finds it is necessary to raise additional revenues to provide those county services required for the health, safety and welfare of the people of the county. The purpose of the taxes imposed by this subchapter is to raise funds to provide those services within the county. All proceeds collected under this subchapter shall be general fund revenue. This subchapter is intended to establish a unified system for collection and allocation of taxes based upon business net income by the county and by cities within the county.
('90 Code § 5.60.010) (Ord. 768, passed 1993; Ord. 779, passed 1993)

§ 11.502 CONFORMITY TO STATE INCOME TAX LAWS.

(A) The Business Income Tax Law shall be construed in conformity with the laws and regulations of the state imposing taxes on or measured by net income as they are amended on or before December 31, 1997. The administrator shall have the authority by administrative rules adopted in accordance with § 11.507, to connect to or disconnect from any legislative enactment that deals with income or excise taxation or the definition of income.

(B) Should a question arise under the Business Income Tax Law on which this subchapter is silent, the administrator may look to the laws of the state for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this subchapter or the state law is otherwise inapplicable.
('90 Code § 5.60.020) (Ord. 768, passed 1993; Ord. 897, passed 1998)

§ 11.503 PRESUMPTION OF DOING BUSINESS.

A person is presumed to be doing business in the county and subject to this subchapter if engaged in any of the following activities:

(A) Advertising or otherwise professing to be doing business within the county;

(B) Delivering goods or providing services to customers within the county;

(C) Owning, leasing or renting personal or real property within the county which is used in a trade or business;

(D) Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this subchapter. Property may be personal, including intangible, or real in nature; or

(E) Engaging in any activity in pursuit of gain which is not otherwise exempted in this subchapter.
('90 Code § 5.60.030) (Ord. 768, passed 1993; Ord. 897, passed 1998)

§ 11.504 DEFINITIONS.

For the purpose of this subchapter, the terms used in this subchapter shall be defined as provided in this subchapter or in Administrative Rules, adopted under § 11.507 of this subchapter, unless the context requires otherwise.

ADMINISTRATOR. The Bureau of Licenses, City of Portland, along with its employees and agents.

APPEALS BOARD. The hearings body designated by the Board to review taxfiler appeals from final determinations by the administrator.

BUSINESS. An enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

CONTROLLING SHAREHOLDER. Any person, either alone or together with that person's spouse, parents, and children, who, directly or indirectly, owns more than 5% of any class of outstanding stock or securities of the taxfiler. The term *CONTROLLING SHAREHOLDER* may mean the controlling shareholder individually or in the aggregate.

DIRECTOR. The Finance Director.

DIVISION. The Finance Division of the county.

DOING BUSINESS. To engage in any activity in pursuit of profit or gain, including but limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.

EMPLOYEE. Any individual who performs services for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance.

INDIVIDUAL. A natural person.

NET OPERATING LOSS. The negative taxable income that may result after the deductions allowed by the Business Income Tax Law in determining net income for the tax year.

NONBUSINESS INCOME. Income not created in the course of the taxfiler's business activities.

NOTICE. A written document mailed first class by the Administrator or division to the last known address of a taxfiler as provided to the administrator or division in the latest tax return on file with the administrator.

OWNERSHIP OF OUTSTANDING STOCK OR SECURITIES. The incidents of ownership which include the power to vote on the corporation's business affairs or for the directors, officers, operators or other managers of the taxfiler.

RECEIVED. The postmark date affixed by the United States postal service if mailed or the date stamp if delivered by hand or sent by facsimile.

TAX YEAR. The taxable year of a person for federal or state income tax purposes.

TAXFILER. A person doing business in the county and required to file a return under the Business Income Tax Law.
('90 Code § 5.60.100) (Ord. 768, passed 1993; Ord. 897, passed 1998)

§ 11.505 INCOME DEFINED.

For the purpose of this section, the following definition shall apply unless the context requires a different meaning.

INCOME. The net income arising from any business, as reportable to the state for personal income, corporation excise, or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

(A) Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates and trusts, shall be liable for the business tax and not the individual partners, shareholders, members or beneficiaries. The income of these entities shall include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets and other income attributable to the entity.

(B) If one or more persons are required or elect to report their income to the state for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single return shall be filed by the person filling such return. In such cases, ***INCOME*** means the net income of the consolidated, combined or joint group of taxfilers before any allocation or appointment for operation out of the state, or deduction for a net operating loss carrying-forward or carry-back.

(C) The absence of report income to the Internal Revenue Service or the state shall not limit the ability of the administrator to determine the correct income of the taxfiler through examination under § 11.513 of this subchapter.
('90 Code § 5.60.110) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

§ 11.506 ADMINISTRATION.

(A) The City of Portland, Bureau of Licenses shall be the administrator of record and shall have the authority to administer and enforce this subchapter to include, but not limited to, administrative return processing, auditing, determinations, collection of taxes, penalties and interest, protests and appeals.

(B) The administrator shall have access to and maintain all tax filings and records, under this subchapter, on behalf of the county. The administrator may, upon request, interpret how this subchapter applies, in general or for a certain set of circumstances. Nothing in this subchapter shall preclude the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the administrator.
('90 Code § 5.60.200) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

§ 11.507 ADMINISTRATIVE AUTHORITY.

(A) The administrator may implement procedures, forms, and written policies for administering the provisions of the Business Income Tax Law.

(B) The administrator may adopt rules relating to matters within the scope of this subchapter to administer compliance with the Business Income Tax Law.

(C) Before adopting a new rule, the administrator shall hold a public hearing. Prior to the hearing, the administrator shall publish a notice in a newspaper of general circulation in the county. The notice shall be published not less than ten nor more than 30 days before the hearing. Such notice shall include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.

(D) At the public hearing, the administrator, or designee, shall take oral and written testimony concerning the proposed rule. The administrator shall either adopt the proposed rule, modify, or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the administrator. All rules adopted by the administrator shall be filed in the division's office. Copies of all current rules shall be made available to the public upon request.

(E) Notwithstanding divisions (C) and (D) of this section, the administrator may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this division shall be effective for a period of not longer than 180 days.
('90 Code § 5.60.210) (Ord. 768, passed 1993; Ord. 779, passed 1993)

§ 11.508 OWNERSHIP OF TAXFILER INFORMATION.

The county shall be the sole owner of all filer information under the authority of this subchapter. The Director or the director's designee shall have access to all taxfiler information at all times.
('90 Code § 5.60.220) (Ord. 768, passed 1993)

§ 11.509 CONFIDENTIALITY.

Except as provided in this subchapter or otherwise required by law, it shall be unlawful for the division or the administrator, or any elected official, employee, or agent of the county, or for any person who has acquired information pursuant to § 11.510(A) and (C) of this subchapter to divulge, release, or make known in any manner any financial information submitted or disclosed to the county under the terms of the Business Income Tax Law. Nothing in this section shall be construed to prohibit:

(A) The disclosure of the names and addresses of any persons who have filed a return; or

(B) The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler.
('90 Code § 5.60.230) (Ord. 768, passed 1993; Ord. 779, passed 1993)

§ 11.510 PERSONS TO WHOM INFORMATION MAY BE FURNISHED.

(A) (1) The division may disclose and give access to information described in § 11.509 of this subchapter to an authorized representative of the state Department of Revenue, or of any local government of the state imposing taxes upon or measured by gross receipts or net income, for the following purposes:

(a) To inspect the tax return of any taxfiler;

(b) To obtain an abstract or copy of the tax return;

(c) To obtain information concerning any item contained in any return; or

(d) To obtain information of any financial audit of the tax returns of any taxfiler.

(2) Such disclosure and access shall be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business Income Tax Law.

(B) Upon request of a taxfiler, or authorized representative, the administrator shall provide copies of any tax return information filed by the tax filer in the administrator's possession.

(C) The division may also disclose and give access to information described in § 11.509 of this subchapter to:

(1) The County Counsel, to the extent the division deems disclosure or access necessary for the performance of the duties of advising or representing the division.

(2) Other county employees and agents, to the extent the division deems disclosure or access necessary for such employees or agents to perform their duties under contracts or agreements between the division and any other department, division, agency or subdivision of the county relating to the administration of the Business Income Tax Law.

(D) All employees and agents of the division or county, prior to the performance of duties involving access to financial information submitted to the county under the terms of the Business Income Tax Law, shall be advised in writing of the provision of § 11.599 of this chapter relating to penalties for the violation of §§ 11.509 and 11.512 of this subchapter and this section. Such employees and agents shall execute a certificate in a form prescribed by the division, stating that the person has reviewed these provisions of law, has had them explained, and is aware of the penalties for the violation of §§ 11.509 and 11.512 of this subchapter and this section.

(E) Prior to any disclosures permitted by this section, all persons described in division (A) of this section, to whom disclosure or access to financial information is given, shall:

(1) Be advised in writing of the provisions of § 11.599 of this chapter relating to penalties for the violation of § 11.599 of this chapter; and

(2) Execute a certificate in a form prescribed by the division, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of § 11.599 of this chapter.

(F) The director's signature on the certificate, required by division (E)(2) of this section, shall constitute consent to disclosure to the persons executing the certificate.
('90 Code § 5.60.240) (Ord. 768, passed 1993)

§ 11.511 TAXFILER REPRESENTATION.

No person shall be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the administrator determines from other available information the person has authority to represent the taxfiler.
('90 Code § 5.60.250) (Ord. 768, passed 1993) Penalty, see § 11.599

§ 11.512 REPRESENTATION RESTRICTIONS.

(A) No employee or official of the county, the administrator, any public agency authorized to collect taxes imposed by this subchapter, shall represent any taxfiler in any matter before the administrator. This restriction against taxfiler representation shall continue for two years after termination of employment or official status.

(B) Members of the appeals board shall not represent a taxfiler before the appeals board. No member of the appeals board shall participate in any

matter before the board if the appellant is a client of the member or the member's firm.
('90 Code § 5.60.255) (Ord. 768, passed 1993; Ord. 779, passed 1993) Penalty, see § 11.599

§ 11.513 EXAMINATION OF BOOKS, RECORDS OR PERSONS.

(A) The administrator may examine any books, papers, records, or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The administrator shall have the authority, after notice, to:

(1) Require the attendance of any person required to file a tax return under the Business Income Tax Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the administrator may designate;

(2) Take testimony, with or without the power to administer oaths to any person required to be in attendance; and

(3) Require proof for the information sought, necessary to carry out the provisions of this subchapter.

(B) The administrator shall designate the employees who shall designate the employees who shall have the power to administer oaths hereunder. Such employees shall be notaries public of the state.
('90 Code § 5.60.260) (Ord. 768, passed 1993)

§ 11.514 RECORDS.

Every person required to file a return under the Business Income Tax Law shall keep and preserve for not less than seven years such documents and records, including state and federal income and excise tax returns, accurately supporting the information reported on the taxfiler's return and calculation of tax for each year.
('90 Code § 5.60.270) (Ord. 768, passed 1993)

§ 11.515 DEFICIENCIES AND REFUNDS.

(A) Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, 314.415, and 317.950. The administrator may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.

(B) Notwithstanding division (A) of this section, if no tax return is filed, the administrator may determine taxes due under this subchapter at any time based on the best information available to the administrator. Taxes determined under this division shall be assessed and subject to penalties and interest from the date the taxes should have been paid as provided in § 11.519 of this subchapter in accordance with §§ 11.526 and 11.599 of this chapter. The administrator shall send notice of the determination and assessment to the person doing business in the county.

(C) Consistent with ORS 314.410(3), in cases where no tax return has been filed, there shall be no time limit for a notice of deficiency or the assessment of taxes, penalty and interest due.
('90 Code § 5.60.280) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998) Penalty, see § 11.599

§ 11.516 PROTESTS AND APPEALS.

(A) Any determination by the administrator may be protested by the taxfiler. Written notice of the protest must be received by the administrator within 30 days after the notice of determination was mailed or delivered to the taxfiler. The protest shall state the name and address of the taxfiler and an explanation of the grounds for the protest. The administrator shall respond within 30 days after the protest is filed with the administrator with either a revised determination or a final determination. The administrator's determination shall include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the administrator's response may be extended by the administrator, for good cause. Requests for extensions of time must be received prior to the expiration of the original 30-day protest

deadline. Written notice shall be given to the taxfiler if the administrator's deadline is extended.

(B) Any final determination by the administrator may be appealed by the taxfiler to the appeals board. Written notice of the appeal must be received by the administrator within 30 days after the final determination was mailed or delivered to the appellant. The notice of appeal shall state the name and address of the appellant and include a copy of the final determination.

(C) (1) Within 90 days after the final determination was mailed or delivered to the taxfiler, the appellant shall file with the appeals board a written statement containing:

(a) The reasons the administrator's determination is incorrect; and

(b) What the correct determination should be.

(2) Failure to file such a written statement within the time permitted shall be deemed a waiver of any objections, and the appeal shall be dismissed.

(D) Within 150 days after the final determination was mailed or delivered to the taxfiler, the administrator shall file with the appeals board a written response to the appellant's statement. A copy of the administrator's response shall be promptly mailed to the address provided by the appellant.

(E) The appellant shall be given not less than 14 days prior written notice of the hearing date and location. The appellant and the administrator shall have the opportunity to present relevant testimony and oral argument. The appeals board may request such additional written comment and documents as it deems appropriate.

(F) Decisions of the appeals board shall be in writing, state the basis for the decision and be signed by the appeals board chair.

(G) The decision of the appeals board shall be final on the date it is issued and no further administrative appeal shall be provided.

(H) The filing of an appeal with the appeals board shall temporarily suspend the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.
('90 Code § 5.60.290) (Ord. 768, passed 1993)

§ 11.517 EXEMPTIONS.

To the extent set forth below, the following persons or incomes are exempt from tax requirements imposed by the Business Income Tax Law:

(A) Persons whom the county is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the state.

(B) Income arising from transactions which the county is prohibited from taxing under the Constitution or the laws of the United States or the Constitution or laws of the state.

(C) Persons whose gross receipts from all business, both within and without the county, amount to less than $25,000 in any tax year. The administrator may demand a statement that the person's gross receipts for any tax year were less than $25,000.

(D) Corporations exempt from the state Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 shall pay a tax based solely on such income.

(E) Trusts exempt from federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501(b) shall be subject to the tax under this subchapter based solely on that income.

(F) Any individual whose only business transactions are exclusively limited to the following activities:

(1) Sales, exchanges or involuntary conversions of real property not held for sale in the ordinary course of a trade or business, unless the real

property is used in the trade or business in connection with the production of income; or

(2) The sale of personal property acquired for household or other personal use by the seller; or

(3) (a) Interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities; or

(b) Gains or losses incurred from the sale of assets which are not a part of a trade or business; or

(4) The renting or leasing of residential real property, if the beneficial owner of such real property does not rent or lease more than nine dwelling units, at least one of which is within the county.

(G) Any person whose only business transactions are exclusively limited to the following activities:

(1) Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on the person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption shall not apply if, in addition to the farm activities described in this subdivision, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.

(2) Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swapmeet or similar event for less than 14 days in any tax year.
('90 Code § 5.60.400) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998; Ord. 901, passed 1998)

§ 11.518 IMPOSITION AND RATE OF TAX.

(A) Except as otherwise provided in this subchapter, a tax is imposed upon each person doing business within the county equal to 1.45% of the net income from the business within the county.

(B) The payment of a tax required hereunder and the acceptance of such tax shall not entitle a taxfiler to carry on any business not in compliance with all the requirements of this code and all other applicable laws.
('90 Code § 5.60.500) (Ord. 768, passed 1993; Ord. 779, passed 1993) Penalty, see § 11.599

§ 11.519 RETURN DUE DATE.

(A) Tax returns shall be on forms provided or approved by the administrator. All tax returns shall be filed, together with the specified tax by the fifteenth day of the fourth month following the end of the tax year.

(B) The administrator may, for good cause, grant extensions for filing returns, except that no extension may be granted for more than six months beyond the initial due date. This extension does not extend the time to pay the tax.

(C) The tax return shall contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.

(D) The administrator shall prepare blank tax returns and make them available upon request. Failure to receive or secure a form shall not relieve any person from the obligation to pay a tax under the Business Income Tax Law.
('90 Code § 5.60.510) (Ord. 768, passed 1993; Ord. 779, passed 1993) Penalty, see § 11.599

§ 11.520 QUARTERLY ESTIMATES.

For tax years beginning on or after January 1, 1993, every taxfiler who incurred a tax liability, under § 11.518 of this subchapter, or under '90 MCC § 5.70.045 for the preceding tax year, of $1,000 or greater shall estimate the taxfiler's tax liability for the current tax year under this subchapter and pay the amount of tax determined as provided in § 11.521 of this subchapter.
('90 Code § 5.60.520) (Ord. 768, passed 1993)

§ 11.521 SCHEDULE FOR PAYMENT OF ESTIMATED TAX.

A taxfiler required under § 11.520 of this subchapter to make payments of estimated tax shall make the payments in installments as follows:

(A) One quarter or more of the estimated tax on or before the fifteenth day of the fourth month of the tax year;

(B) One quarter or more of the estimated tax on or before the fifteenth day of the sixth month of the tax year;

(C) One quarter or more of the estimated tax on or before the fifteenth day of the ninth month of the tax year; and

(D) The balance of the estimated tax shall be paid on or before the fifteenth day of the twelfth month of the tax year.

(E) Any payment of the estimated tax received by the administrator for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, shall first be applied to underpayments of estimated tax due for any prior quarter of the tax year. Any excess amount shall be applied to the installment that next becomes due after the payment was received.
('90 Code § 5.60.530) (Ord. 768, passed 1993) Penalty, see § 11.599

§ 11.522 PRESUMPTIVE TAX.

(A) If a person fails to file a return, a rebuttable presumption shall exist that the tax payable amounts to $500 for every tax year for which a return has not been filed.

(B) Nothing in this section shall prevent the administrator from assessing, under § 11.515(B) a tax due which is less than or greater than $500 per tax year.
('90 Code § 5.60.550) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

§ 11.523 INCOME DETERMINATIONS.

(A) *Owners compensation deduction. **OWNERS COMPENSATION DEDUCTION*** is defined as the additional deduction allowed in divisions (B), (C) and (D) of this section. For tax years beginning prior to January 1, 1999, the owners compensation deduction cannot exceed $50,000 per owner, as defined in this section. For tax years beginning on or after January 1, 1999, the owner compensation deduction will be indexed by the Consumer Price Index - All Urban Consumers (CPI-U) U.S. City Average as published by the U.S. Department of Labor, Bureau of Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The initial index will be the September 1998 to September 199 index. The administrator will determine the exact deduction amount and publish the amount in written policy and included on forms. Any increase or decrease under this division which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.

(B) *Sole proprietorship*. In determining income, no deductions shall be allowed for any compensation for services rendered by, or interest paid to, owners. However, 75% of income determined without such deductions shall be allowed as an additional deduction, not to exceed the amount determined in division (A) above per owner.

(C) *Partnerships*. In determining income, no deduction shall be allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability

companies, limited liability partnerships or family limited partnerships. Guaranteed payments to partners or members shall be deemed compensation paid to owners for services rendered. However:

(1) For general partners or members, 75% of income determined without such deductions shall be allowed as an additional deduction, not to exceed the amount determined in division (A) above per general partner or member.

(2) For limited partners or members of limited liability corporations who are deemed partners by administrative rule or policy, 75% of income determined without such deductions shall be allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amount determined in division (A) above per compensated limited partner.

(D) *Corporations.* In determining income, no deduction shall be allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including, but not limited to C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75% of the corporation's income, determined without deduction of compensation or interest, shall be allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amount determined in division (A) above for each controlling shareholder.

(1) For purposes of this subdivision, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees, or interest paid to all persons meeting the definition of a controlling shareholder, must be included.

(2) For purposes of this subdivision, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually own more than 5% ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than 5% of stock shall be deemed to be an additional controlling shareholder.

(3) For purposes of this division (C), joint ownership of outstanding stock or securities shall not be considered separate ownership.

(E) *Estates and trusts.* In determining income for estates and trusts, income shall be measured before distribution of profits to beneficiaries. No additional deduction shall be allowed.

(F) *Nonbusiness income.* In determining income under this section, an allocation shall be allowed for nonbusiness income as reported to the state. However, income treated as nonbusiness income for state tax purposes may not necessarily be defined as nonbusiness income under the Business Income Tax Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business shall be treated as business income for purposes of the Business Income Tax Law. Income derived from non-unitary business functions reported at the state level may be considered nonbusiness income. Non-unitary income will not be recognized at an intrastate level. The taxfiler shall have the burden of showing that income is nonbusiness income.

(G) *Tax based on or measured by net income.* In determining income, no deduction shall be allowed for taxes based on or measured by net income. No deduction shall be allowed for the federal built-in gains tax.

(H) *Ordinary gain or loss.* In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under § 11.517(F) of this subchapter shall be included as ordinary gain or loss.

(I) *Net operating loss.* In determining income, a deduction shall be allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75% of the income determined for the current tax year before this deduction but after all other deductions from income allowed by this section and apportioned for business activity both within and without the county.

(1) When the operations of the taxfiler from doing business both within and without the county result in a net operating loss, such loss shall be apportioned in the same manner as the net income under § 11.524 of this subchapter. However, in no case shall a net operating loss be carried forward from any tax year during which the taxfiler conducted no business within the county or the taxfiler was otherwise exempt from tax filing requirements.

(2) In computing the net operating loss for any tax year, the net operating loss of a prior tax year shall not be allowed as a deduction.

(3) In computing the net operating loss for any tax year, no compensation allowance deduction shall be allowed to increase the net operating loss. ***COMPENSATION ALLOWANCE DEDUCTION*** is defined as the additional deduction allowed by division (A) of this section.

(4) The net operating loss of the earliest tax year available shall be exhausted before a net operating loss from a later tax year may be deducted.

(5) The net operating loss in any tax year shall be allowed as a deduction in any of the five succeeding tax years until used or expired. Any partial tax year shall be treated the same as a full tax year in determining the appropriate carry-forward period.
('90 Code § 5.60.600) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998; Ord. 901, passed 1998) Penalty, see § 11.599

§ 11.524 APPORTIONMENT OF INCOME.

(A) Business activity means any of the elements of doing business. However, a person shall not be considered to have engaged in business activities solely by reason of sales of tangible personal property in any state or political subdivision, or solely the solicitation of orders for sales of tangible personal property in any state or political subdivision. Business activities conducted on behalf of a person by independent contractors are not considered business activities by the person in any state or political subdivision.

(B) Any taxfiler having income from business activity both within and without the county shall in computing the tax, determine the income apportioned to the county by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the county during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.

(C) In determining the apportionment of gross income within the county under division (B) of this section:

(1) Sales of tangible personal property shall be deemed to take place in the county if the property is delivered or shipped to a purchaser within the county regardless of the f.o.b. point or other conditions of sale. Sales of tangible personal property shipped from the county to a purchaser located where the taxfiler is not taxable shall not be apportioned to the county.

(2) Sales other than sales of tangible personal property shall be deemed to take place in the county, if the income producing activity is performed in the county or the income producing activity is performed both in and outside the county and a greater portion of the income producing activity is performed in the county than outside the county based on costs of performance.

(D) Certain industries or incomes shall be subject to specific apportionment or allocation methodologies. Such methodologies shall be described in administrative rules adopted in accordance with § 11.507. Industry specific or income specific apportionment methodologies required by state law shall be used in cases where no rule has been adopted by the administrator regarding the apportionment of such industry or income. In those specific cases where the state has directed allocation of income, such income shall be apportioned for purposes of this subchapter, unless allocation is otherwise allowed in this subchapter.

(E) If the apportionment provisions of division (B) of this section do not fairly represent the extent of the taxfiler's business activity in the county and result in the violation of the taxfiler's rights under the Constitution of this state or the United States, the taxfiler may petition the administrator to permit the taxfiler to:

(1) Utilize the method of allocation and apportionment used by the taxfiler under the applicable laws of the state imposing taxes upon or measured by net income; or

(2) Utilize any other method to effectuate an equitable apportionment of the taxfiler's income. ('90 Code § 5.60.610) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

§ 11.525 CHANGES TO FEDERAL OR STATE TAX RETURNS.

(A) If a taxfiler's reported net income under applicable state laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the state Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change shall be filed with the administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report shall be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.

(B) The administrator may assess deficiencies and grant funds resulting from changes to federal, state or business income tax returns within the time periods provided for in § 11.515 of this subchapter, treating the report of change in federal, state or business income tax returns as the filing of an amended tax return.

(C) The administrator may assess penalties and interest on the additional tax due as provided in §§ 11.526 (A) and 11.599 of this chapter or may refuse to grant a refund of taxes as a result of the amended return if the amended return is not filed with the administrator within the time limits set forth in division (A) of this section. ('90 Code § 5.60.620) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

§ 11.526 INTEREST.

(A) Interest shall be collected on any unpaid tax at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the original due date of the tax to the fifteenth day of the month following the date of payment.

(B) (1) Interest shall be collected on any unpaid or underpaid quarterly estimated payment required by §§ 11.520 and 11.521 at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.

(2) Notwithstanding division (B)(1), there shall be no interest on underpayment of quarterly estimated payments if:

(a) The total tax liability of the prior tax year was less than $1,000;

(b) An amount equal to at least 90% of the total tax liability for the current tax year was paid in accordance with § 11.521; or

(C) An amount equal to at least 100% of the prior year's total tax liability was paid in accordance with § 11.521.

(3) For purposes of division (B)(1), the amount of underpayment is determined by comparing the 90% of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return.

(C) If a person fails to file a tax return on the prescribed date, or any extension thereof granted under § 11.519(B) of this subchapter, the administrator may determine the tax due based on the best information available to the administrator. If the

administrator determines the tax due under this division, the administrator shall assess appropriate penalties and interest and shall send notice to such person of the determination and assessment.

(D) For purposes of division (A) of this section, the amount of tax due on the tax return shall be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with § 11.519(A) of this subchapter.

(E) Interest at the rate specified in division (A) of this section shall accrue from the original due date without regard to any extension of the filing date.

(F) Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the administrator, unless specifically provided for by written policy.
('90 Code § 5.60.710) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

§ 11.527 PAYMENTS APPLIED.

Taxes received shall first be applied to any penalty accrued, then to interest accrued, then to taxes due.
('90 Code § 5.60.715) (Ord. 768, passed 1993)

§ 11.528 INTEREST ON REFUNDS.

When, under a provision of the Business Income Tax Law, taxfilers are entitled to a refund of a portion or all of a tax paid to the administrator, they shall receive simple interest on such amount at the rate specified in § 11.526(A) of this subchapter, subject to the following:

(A) Any overpayments shall be refunded with interest for each month or fraction thereof for a period beginning four months after the due date or the date the tax was paid, whichever is later, to the date of the refund; and

(B) Any overpayments of estimated tax shall be refunded with interest for each month or fraction thereof for the period beginning four months after the date final return was filed.

(C) Any overpayments of taxes that are the result of an amended return being filed shall be refunded with interest for each month or fraction thereof for the period beginning four months after the date the amended return was filed. This division shall apply to applications that are amended due to a change to the federal, state or business income tax return.
('90 Code § 5.60.720) (Ord. 768, passed 1993; Ord. 897, passed 1998)

§ 11.529 PARTICIPATION OF CITIES.

To facilitate a unified system of collection and allocation of all county and municipal taxes upon business net income within the county, any city the territory of which is in whole or in part within the county may, if authorized by its governing body, participate under and share in the revenue derived from this subchapter, upon such terms and conditions as the county and city may agree by written contract.
('90 Code § 5.60.840) (Ord. 768, passed 1993; Ord. 779, passed 1993)

§ 11.530 FORMER REGULATIONS SUPERSEDED BY THIS SUBCHAPTER; EXCEPTIONS.

Effective for tax years beginning on or after January 1, 1993, '90 MCC Chapter 5.70 shall be superseded and given no effect until this subchapter is repealed or otherwise ceases to be effective. For tax years ending on or before December 31, 1992, all determinations of obligations and responsibilities required of any persons under '90 MCC Chapter 5.70, made on or before December 31, 1993 shall remain binding upon those persons. However, on and after January 1, 1994, §§ 11.500 et seq. shall apply to all determinations of obligations and responsibilities for tax years ending on or before December 31, 1992 with the exceptions of:

(A) Determination of income under '90 MCC 5.70.015;

(B) Treatment of payments to owners or controlling shareholders under '90 MCC 5.70.025;

(C) Net operating loss deduction under '90 MCC 5.70.030;

(D) Ordinary gain or loss under '90 MCC 5.70.035;

(E) Rate of tax;

(F) Apportionment of income under '90 MCC 5.70.050;

(G) Partnerships, S corporations, estates and trusts under '90 MCC 5.70.055;

(H) Exemptions under '90 MCC 5.70.060;

(I) State laws incorporated by reference under '90 MCC 5.70.075 (except that the City of Portland, Bureau of Licenses shall replace any references to the state Department of Revenue as the administrator of the Tax.);

(J) Amendments under '90 MCC 5.70.110. ('90 Code § 5.60.850) (Ord. 768, passed 1993; Ord. 779, passed 1993)

Editor's note:

'90 MCC is the former Multnomah County Code. Copies of the '90 MCC sections referred to in this section are available for public inspection at the county offices during regular business hours.

§ 11.599 PENALTY.

(A) A penalty shall be assessed if a person:

(1) (a) Fails to file a tax return or extension request at the time required under §§ 11.519(A) or 11.525(A); or

(b) Fails to pay a tax when due.

(2) The penalty under division (A) shall be calculated as:

(a) Five percent of the total tax liability if the failure is for a period less than four months;

(b) An additional penalty of 20% of the total tax liability if the failure is for a period of four months or more; and

(c) An additional penalty of 100% of the total tax liability of all tax years if the failure to file is for three or more consecutive tax years.

(B) A penalty shall be assessed if a person who has filed an extension request:

(1) (a) Fails to file a tax return by the extended due date; or

(b) Fails to pay the tax liability by the extended due date.

(2) The penalty under division (B) shall be calculated as:

(a) Five percent of the total tax liability if the failure is for a period of less than four months; and

(b) An additional penalty of 20% of the total tax liability if the failure is for a period of four months or more.

(C) A penalty shall be assessed if a person:

(1) (a) Fails to pay at least 90% of the total tax liability by the original due date; or

(b) Fails to pay at least 100% of the prior year's total tax liability by the original due date.

(2) The penalty under division (C) shall be calculated as:

(a) Five percent of the tax underpayment if the failure is for a period less than four months; and

(b) An additional penalty of 20% of the tax underpayment if the failure is for a period of four months or more.

(D) The administrator may impose a civil penalty of up to $500 for each of the following violations of this subchapter:

(1) Failure to file any tax return within 90 days of the administrator's original written notice to file;

(2) Failure to pay any tax within 90 days of the administrator's original written notice for payment; or

(3) Failure to provide documents as required by §§ 11.513 within 90 days of the administrator's original written notice to provide documents.

(E) The administrator may impose a civil penalty under division (D) only if the administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.

(F) The administrator may waive or reduce any penalty determined under divisions (A) through (D) for good cause, according to and consistent with written policies.

(G) Violation of §§ 11.509 or 11.510 is punishable, upon conviction thereof, by a fine not exceeding $1,000 or by imprisonment for a period not exceeding 12 months, or by both fine and imprisonment. In addition, any county employee convicted for violation of §§ 11.509 or 11.510 shall be dismissed from employment and shall be barred from employment for a period of five years thereafter. Any agent of the county shall, upon conviction, be ineligible for participation in any county contract for a period of five years thereafter. ('90 Code §§ 5.60.700, 5.60.730) (Ord. 768, passed 1993; Ord. 779, passed 1993; Ord. 897, passed 1998)

CHAPTER 13: ANIMAL CONTROL

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GENERAL PROVISIONS

§ 13.001 TITLE.

This chapter may be cited as the Animal Control Law.

('90 Code § 8.10.005) (Ord. 156, passed 1977)

§ 13.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context requires a different meaning.

ANIMAL. Any nonhuman vertebrate.

ANIMAL AT LARGE. Any animal, excluding domestic cats, that is not physically restrained on owner's or keeper's private property (including motorized vehicles) in a manner that physically prevents the animal from leaving that property or reaching any public areas; or, is not physically restrained when on public property, or any public area, by a leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a capable person.

AGGRESSIVELY BITES. Any dog bite that breaks the skin and is accompanied by an attack where the dog exhibits one or more of the following: snarling, baring teeth, chasing, growling, snapping, pouncing, lunging, multiple attacks, multiple lunges, or multiple bites.

CHRONIC NOISE NUISANCE. Demonstrated by the issuance of two or more notice of infractions or citations for violation of § 13.305(B)(6), and the receipt of multiple complaints from more than one household in close proximity to the animal's location.

CHRONIC SAFETY NUISANCE. Demonstrated by the issuance of two or more notice of infractions or citations for any of the following:

(1) Violation of § 13.401, relating to the same dog;

(2) Any dangerous animal that is not confined as required by law; or

(3) Any other violation of this chapter based on animal behavior that causes a substantial risk to public safety.

DANGEROUS ANIMAL. Any animal, including insects, which is of a wild or predatory nature, or which because of its size, vicious nature or other characteristics would constitute an unreasonable danger to human life or property if not kept, maintained or confined in a safe and secure manner. A dog that has engaged in the behaviors specified in § 13.412.

DANGEROUS ANIMAL FACILITY. Any site for the keeping of one or more dangerous animals.

DIRECTOR. The director of the Department of Environmental Services of the county, or the director's designee.

EUTHANASIA. Putting an animal to death in a humane manner.

FACILITY. A site operated or used for any of the following:

(1) Boarding, training or similar purposes for varying periods of time;

(2) For the purposes of breeding, buying, selling, or bartering of dogs or cats;

(3) Facility operated by an animal welfare or rescue organization; or

(4) Breeding of dogs or cats for the preservation of the breed.

HEARINGS OFFICER. A person appointed by the Chair to hear appeals decisions of the director concerning violations of this chapter, or license denial or revocation under §§ 13.150 through 13.153.

IMMEDIATE HEALTH HAZARD. Exists if at any given location there are conditions that the director determines warrant immediate intervention; such conditions include, but are not limited to inadequate sanitation, untreated disease, or animals in numbers greater than the animal's owner or keeper can reasonably care for.

KEEPER. Any person or legal entity who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by that person for a period of time not less than 72 hours or someone who accepted the animal for the purpose of safe keeping.

LIVESTOCK. Animals, including but not limited to fowl, horses, mules, burros, asses, cattle, sheep, goats, llamas, emu, ostriches, swine and other farm animals, excluding dogs and cats.

LIVESTOCK FACILITY. Any site for the keeping of livestock.

MINIMUM CARE. Has the meaning as provided in ORS 167.310(8).

MUZZLE. A device constructed of strong, soft material or a metal muzzle that complies with specifications to be adopted as administrative rules by the director. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal.

OWNER. Any person or legal entity having a possessory property right in the animal or any person who has been a keeper of an animal for more than 90 days.

PERMIT. For the purpose of § 13.305, shall include human conduct that is intentional, deliberate, careless, inadvertent or negligent in relationship to an animal.

PET LICENSE. A license for any owned animal that is of licensable age.

PHYSICAL DEVICE OR STRUCTURE. A tether, trolley system, other physical control device or any structure made of material sufficiently strong to adequately and humanely confine the animal in a manner that would prevent it from escaping the premises.

PHYSICAL INJURY. Physical impairment or as evidenced by scrapes, cuts, punctures, bruises or physical pain or other evidence of physical impairment.

POTENTIALLY DANGEROUS DOG. Any dog that has been found to have engaged in any of the behaviors specified in § 13.401.

PUBLIC NUISANCE ANIMAL. An animal that has been determined by the director to be a chronic noise nuisance, or a chronic safety nuisance, or an animal that is subjected to an immediate health hazard.

SECURE ENCLOSURE. Shall be any of the following:

(1) A fully fenced pen, kennel or structure that shall remain locked with a padlock or combination lock. Such pen, kennel or structure must have secure sides, minimum of five feet high, and the director may require a secure top attached to the sides, and a secure bottom or floor attached to the sides of the structure or the sides must be embedded in the ground no less than one foot. The structure must be in compliance with the jurisdiction's building code; or

(2) A house or garage. When dogs are kept inside a house or garage as a secure enclosure, the house or garage shall have latched doors kept in good repair to prevent the accidental escape of the dog. A house, garage, patio, porch or any part of the house or structure is not a secure enclosure if the structure would allow the dog to exit the structure on its own volition.

SERIOUS PHYSICAL INJURY. Any physical injury which creates a substantial risk of death or which causes significant disfigurement, significant impairment of health or significant loss or impairment of the function of any body part or bodily organ.

SERVICE ANIMAL. An animal that is professionally trained to provide assistance and whose primary function is to provide such service. Service animals include, but are not limited to, guide dogs, police dogs and rescue dogs.

SEXUALLY UNREPRODUCTIVE. Being incapable of reproduction and certified as such by a licensed veterinarian.

VICIOUS ANIMAL. Any dangerous animal, excluding dogs or cats, which bites any human being or other domestic animal or which demonstrates menacing behavior towards human beings or domestic animals. *VICIOUS ANIMAL* does not include an

animal which bites, attacks or menaces a trespasser on the property of its owner or keeper or harms or menaces anyone who has tormented or abused it.
('90 Code § 8.10.010) (Ord. 156, passed 1977; Ord. 379, passed 1983; Ord. 480, passed 1985; Ord. 517, passed 1986; Ord. 591, passed 1988; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.003 POLICY.

The Board recognizes that ORS Chapter 609 constitutes state law for the regulation of dogs but may be superseded in home rule counties which provide for regulation by ordinance. The Board finds that it is necessary to establish and implement a program for the licensing and regulation of dogs and other animals and facilities which house them, that animals require legal protection, that the property rights of owners or keepers and nonowners of animals should be protected and that the health, safety and welfare of the people residing in the county would best be served by adoption of such an ordinance.
('90 Code § 8.10.020) (Ord. 156, passed 1977; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.004 SPAYING AND NEUTERING ENCOURAGED.

An amount as set by Board resolution from revenue generated by pet licensing shall be used for public education and low cost spay/neuter programs for the purpose of reducing the number of unwanted animals in the county.
('90 Code § 8.10.260) (Ord. 156, passed 1977; Ord. 384, passed 1983; Ord. 850, passed 1996)

§ 13.005 OTHER LAWS APPLY.

Except as expressly provided in this chapter, this chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and federal laws, rules and regulations, and other ordinances which are now or may be in the future in effect which relate to the requirements provided in this chapter.
('90 Code § 8.10.240) (Ord. 156, passed 1977)

PET LICENSING

§ 13.100 ANIMALS SUBJECT TO LICENSING.

The provisions of this subchapter shall apply to dogs and cats not covered under a facility subject to licensure under §§ 13.150 through 13.153.
('90 Code § 8.10.060) (Ord. 156, passed 1977; Ord. 480, passed 1985; Ord. 850, passed 1996)
[Ord. 156 § IV(1) (1977); Ord. 480 § 2 (1985); Ord.

§ 13.101 LICENSE REQUIRED; TERM.

(A) Dogs and cats shall be licensed within 30 days of obtaining the age of six months or within 30 days of residing in the county or acquisition by the owner or keeper, whichever occurs later.

(B) Licenses shall be valid for one, two or three years from date of issuance, at the option of the pet owner or keeper and, for dogs and cats, shall require a current rabies inoculation for licensing period selected and shall be issued upon payment of the fee required by § 13.512.

(C) Licenses issued under prior existing county ordinances shall remain valid until expiration.

(D) The person who licenses an animal becomes the owner or keeper of record and is responsible for the action or behavior of his or her animal, including the responsibilities of owners provided in § 13.305.
('90 Code § 8.10.070) (Ord. 156, passed 1977; Ord. 480, passed 1985; Ord. 732, passed 1992; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.102 LICENSE REGULATIONS.

(A) Pet license tags shall be securely displayed upon animals at all times, except when the animal is confined to the owner's or keeper's premises or displayed in an exhibition. A pet license tag, with pet license number, shall be issued by the director. Any additional expense is to be borne by the pet owner or keeper.

(B) A pet license is not transferable to another animal. The pet license number shall be assigned to the animal and shall remain with the animal upon transfer to another owner or keeper for the life of the animal.

(C) An animal displaying a current license from jurisdictions outside the county, but within the state, shall not require licensing under this chapter until expiration of the current license.

(D) Animal control may inspect the premises with five or more animals to insure that owners or keepers are providing minimum care and facilities.
('90 Code § 8.10.080) (Ord. 156, passed 1977; Ord. 195, passed 1979; Ord. 480, passed 1985; Ord. 732, passed 1992; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.103 WAIVER OF FEES.

(A) Fees shall be waived for licenses issued for any service animal upon presentment of an affidavit by the animal's owner or keeper. A service animal license shall be valid for the duration that the dog provides the service or upon retirement due to age or infirmity and so long as the dog remains the property of the person named in the affidavit.

(B) License fees for dogs and cats owned by persons aged 65 or older and persons deemed by the director to be under financial hardship shall be reduced by up to 50% for up to two animals per household.
('90 Code § 8.10.090) (Ord. 156, passed 1977; Ord. 480, passed 1985; Ord. 684, passed 1991; Ord. 732, passed 1992; Ord. 850, passed 1996)

FACILITIES LICENSING

§ 13.150 APPLICATION; STANDARDS.

A facility license or dangerous animal facility license shall be granted in accordance with procedures, standards and limitations provided in this subchapter, and no such facility may lawfully be operated except upon application and payment of prescribed fees for the license.
('90 Code § 8.10.100) (Ord. 156, passed 1977; Ord. 480, passed 1985; Ord. 850, passed 1996)

§ 13.151 LICENSING PROCEDURE.

(A) Application for a facility license or dangerous dog facility license shall be made upon forms furnished by the director, shall include all information required therein and shall be accompanied by payment of the required fee.

(B) A facility license or dangerous dog facility license shall be valid for one year from the date of issuance, unless revoked.

(C) The director shall inspect any facility for which a license is sought and, upon determination that the facility and its operation complies with all applicable provisions of this chapter and other applicable local, state and federal laws, shall issue a license which may include one or more conditions of approval or operation.

(D) If the director fails to approve or deny a fully completed application within 60 days of its receipt and payment of fees, the application shall be considered approved for the current year, subject only to revocation as provided in § 13.152.

(E) A license shall be conspicuously displayed on the facility premises and a holder of a license shall keep available for inspection by the director a record of the name, address and telephone number of the owner or keeper of each animal kept at the facility, the date each animal was received, the purpose therefor, the name and address of the person from whom the animal was purchased or received, a description of each animal including species, age,

breed, sex and color and the animal's veterinarian, if known, at the discretion of the director. For small animals such as fish, gerbils, hamsters or similar animals acquired in lots, records are not required for each animal, but adequate income records shall be maintained.
('90 Code § 8.10.110) (Ord. 156, passed 1977; Ord. 480, passed 1985; Ord. 732, passed 1992; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.152 DENIAL AND REVOCATION OF LICENSE.

(A) A license required by this subchapter may be denied or revoked for any of the following reasons:

(1) Failure to comply substantially with any provision of this chapter;

(2) Conviction of the owner or keeper or any person subject to the owner's or keeper's direction or control for the violation of any provision of this chapter or other applicable state or federal law, rule, order or regulation pertaining to any activity relating to animals; or

(3) Furnishing false information on an application for a license under this chapter.

(B) The director shall refund 75% of any fee paid upon denial of a license, provided, however, no refund shall be made upon revocation.

(C) If the director denies an application for a license or approves subject to conditions, the determination is final unless the applicant appeals the denial or conditional approval.

(D) The director shall investigate any complaint concerning licensed facilities and, upon determination that a license should be revoked, shall serve written notice upon the licensee of that determination by certified mail. The director's determination shall become final unless appealed.

(E) Failure to file a request within 20 days shall terminate any appeal right, and the director's decision revoking the license shall not be reviewable otherwise.
('90 Code § 8.10.120) (Ord. 156, passed 1977; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.153 STANDARDS FOR LICENSED FACILITIES.

(A) The director shall not issue a facility license or dangerous animal facility license until a site inspection demonstrates compliance with the standards applicable to the nature and species of any animal to be kept as set forth in this section.

(B) (1) Housing structures shall be sound and maintained in good repair to protect animals from injury, safely confine any animal housed therein and prevent entry of other animals.

(2) Reliable and adequate electrical service and a potable water supply shall serve the facility.

(3) Storage of food supplies and bedding materials shall be designed to prevent vermin infestation.

(4) Refrigeration shall be furnished for perishable foods.

(5) Safe and sanitary disposal facilities shall be available to eliminate animal and food wastes, bedding, dead animals and debris and to minimize vermin infestation, odors and disease hazards.

(6) Cleaning facilities shall be available to animal caretakers and handlers.

(7) Interior ambient temperature shall be maintained above 50 degrees Fahrenheit for animals not acclimatized to lower temperatures.

(8) Adequate ventilation shall be maintained to assure animal comfort by such means as will provide sufficient fresh air and minimize

drafts, odors and moisture condensation. Mechanical ventilation must be available when ambient temperatures exceed 85 degrees Fahrenheit, if appropriate.

(9) Interior areas shall have adequate natural or artificial lighting provided, however, that primary enclosures for animals shall be protected from excessive illumination.

(10) Interior building surfaces shall be so constructed and maintained to permit sanitizing and prevent moisture penetration.

(11) Drainage facilities shall be available to assure rapid elimination of excess water from indoor housing facilities. The design shall assure obstruction-free flow and traps to prevent sewage back-flow.

(12) Outdoor facilities shall provide protective shading and adequate shelter areas designed to minimize harmful exposure to weather conditions for those animals not acclimatized to the environment, if appropriate for the species.

(13) The primary enclosure shall be of sufficient size to permit each animal housed therein to stand freely, sit, turn about and lie in a comfortable normal position as appropriate for the species. An exercise area or means to provide each animal with exercise shall be provided on the premises.

(14) When restraining devices are used in connection with a primary enclosure intended to permit movement outside the enclosure, the devices shall be installed in a manner to prevent entanglement with devices of other animals or objects and shall be fitted to the animal by a harness or well-fitted collar, other than a choke type collar, and shall be of reasonable length.

(15) Animals shall be fed as often as necessary a diet of nutritionally adequate and uncontaminated foods.

(16) Potable water shall be continuously available, unless otherwise recommended by a veterinarian in a particular situation.

(17) Cages, rooms, hard-surfaced pens, runs and food and watering receptacles shall be sanitized daily to prevent disease. Prior to the introduction of animals into empty enclosures, the enclosures shall be sanitized. Animals shall be removed from the enclosure during the cleaning process and adequate care shall be taken to protect animals in other enclosures.

(18) Excrement shall be removed from primary enclosures a minimum of every 24 hours, or more often if necessary as to prevent contamination, reduce disease hazards and minimize odors.

(19) Animals housed together in primary enclosures shall be maintained in compatible groups with the following restrictions, except in residential dwelling:

(a) Females in season (estrus) shall not be placed with males except for breeding purposes;

(b) Animals exhibiting vicious behavior shall be housed separately;

(c) Animals six months or less of age shall not be housed with adult animals other than with their mothers, as appropriate for the species;

(d) Animals shall not be housed with other non-compatible species of animals; and

(e) Animals under quarantine or treatment for any communicable disease shall be separated from other animals.

(20) Programs of disease control and prevention shall be established and maintained.

(21) Each animal shall be seen at least once per 24-hour period by an animal caretaker.

(22) The owner or keeper shall comply with the provisions of § 13.305(B)(7) and (B)(9).
('90 Code § 8.10.130) (Ord. 156, passed 1977; Ord. 850, passed 1996) Penalty, see § 13.999

CARE AND TREATMENT OF ANIMALS

§ 13.300 CONFINING IN MOTOR VEHICLES PROHIBITED.

(A) No animal shall be confined within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including but not limited to dangerous temperature, lack of food, water or attention or confinement with a dangerous animal.

(B) No person shall carry an animal:

(1) Upon the hood, fender, running board or other external part of any moving automobile or truck; or

(2) Within the open bed of any moving pickup, flat-bed or similar vehicle, unless the dog is cross-tethered or protected by framework, carrier or other device sufficient to keep it from falling from the vehicle.

(C) Any animal control or peace officer is authorized to remove any animal from a motor vehicle at any location when the officer reasonably believes it is confined in violation of division (A) of this section. Any animal so removed shall be delivered to the animal control Shelter after the removing officer leaves written notice of the removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle. Such additional notice as may be required by § 13.505(D) shall be given upon impoundment of the removed animal.

(D) No animal control or peace officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.
('90 Code § 8.10.150) (Ord. 156, passed 1977; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.301 TRANSFER OR ABANDONMENT IN PUBLIC PLACES PROHIBITED.

(A) It is unlawful for any person to abandon or transfer to another by gift, sale, or exchange for any consideration, any animal in or upon any sidewalk, street, alley, lane, public right-of-way, park or other public property.

(B) This section does not prohibit transfer of animals under the following circumstances:

(1) When the animal transferred is livestock, as defined in § 13.002, and one of the parties to the transfer is a person who engages in the business of buying or selling livestock for profit;

(2) When the transfer takes place pursuant to a sale conducted by a public body or a public officer;

(3) When one of the parties to the transfer is a member of an animal welfare organization and is acting on behalf of the animal welfare organization; or

(4) When the transfer takes place at an animal show or exhibition conducted by or for persons who regularly engage in the practice of breeding animals for show or exhibition.

(C) *ANIMAL WELFARE ORGANIZATION,* for purposes of this section, means an organization which regularly engages in the practice of acquiring or transferring animals for the purposes of animal welfare, which includes protecting or caring for animals, returning animals to their natural habitat, or placing animals for adoption.
('90 Code § 8.10.155) (Ord. 379, passed 1983) Penalty, see § 13.999

§ 13.302 LOST ANIMALS; DUTIES OF FINDERS.

(A) Any person who finds and harbors an animal without knowing the animal owner's or keeper's identity shall notify the director and furnish a description of the animal within five days after the date of finding the animal.

(B) The finder may surrender the animal to the director or retain its possession, subject to surrender upon demand of the director.

(C) Records of reported findings shall be retained for six months by the director and made available for public inspection.

(D) If the finder chooses to retain possession of the animal, the finder shall, within 15 days, cause to be published in a newspaper of general circulation in the county a notice of the finding once each week for two consecutive weeks. Each such notice shall state the description of the animal, the location where the animal was found, the name and address of the finder and the final date before which such animal may be claimed. If the finder does not wish to have his or her name and address appear in the notice, the finder may obtain a case number from the county animal control and have that number published in the newspaper along with the phone number for animal control for contact.

(E) If no person appears and claims ownership of the animal prior to the expiration of 90 days after the date of the notice to the director under division (A) of this section, the finder shall be declared the owner of the animal. Any person becoming owner of any animal under the provisions of this division shall assume the responsibilities of an owner under this chapter.

(F) If within 180 days of the finder's notice to the director the animal's owner does appear and establish ownership of the animal, the finder shall surrender possession of the animal to that owner. The owner must first pay the finder for all of the finder's reasonable actual costs incurred for giving of notice, providing urgent veterinary care and keeping of the animal.

(G) Any dispute as to ownership or right to possession of the animal, or as to the amount of the finder's costs, shall be submitted to the director in writing, who shall decide the matter in writing within 30 days. Any party aggrieved by the director's decision may appeal the decision under §§ 13.508 through 13.511.
('90 Code § 8.10.160) (Ord. 156, passed 1977; Ord. 379, passed 1983; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.303 ANIMAL WASTES; DUTY TO REMOVE.

Any person in physical possession or control of any animal off the property of the animal's owner or keeper shall immediately remove excrement or other solid waste deposited by the animal in any public area or private property.
('90 Code § 8.10.170) (Ord. 156, passed 1977; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.304 POISONOUS FOOD PROHIBITED.

No person shall knowingly place food of any description containing poisonous or other injurious ingredients in any area reasonably likely to be accessible to animals, except as provided by law for nuisance, vector, or predator control.
('90 Code § 8.10.180) (Ord. 156, passed 1977; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.305 DUTIES OF OWNERS.

(A) For the purposes of this section, unless otherwise limited, the owner is ultimately responsible for the behavior of the animal regardless of whether the owner or another member of the owners household or a household visitor permitted the animal to engage in the behavior that is the subject of the violation.

(B) It is unlawful for any person to commit any of the following:

(1) Permit an animal to be an animal at large;

(2) Permit an animal to trespass upon property of another;

(3) Keep a vicious animal;

(4) Fail to comply with requirements of this chapter which apply to the keeping of an animal, or dangerous animal or any facility where such animals are kept;

(5) Permit a dog in season (estrus) to be accessible to a male dog not in the person's ownership except for intentional breeding purposes;

(6) Permit any animal unreasonably to cause annoyance, alarm or noise disturbance, barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's or keeper's property;

(7) Leave an animal unattended for more than 24 consecutive hours without minimum care;

(8) Deprive an animal of proper facilities or care, including but not limited to the items prescribed in § 13.153. Proper shelter must provide protection from the weather and is maintained in a condition to protect the animals from injury;

(9) Physically mistreat any animal either by abuse or neglect or failure to furnish minimum care;

(10) Permit any animal to leave the confines of any officially prescribed quarantine area;

(11) Permit any dog to engage in any of the behaviors described in § 13.401(a) or (B);

(12) Permit any dog to engage in any of the behaviors described in § 13.401(C) through (D); or

(13) Permit any dog to engage in the behavior described in § 13.402.

(C) For the purpose of this section, ***OWNER*** shall mean either owner or keeper as defined in this chapter.
('90 Code § 8.10.190) (Ord. 156, passed 1977; Ord. 517, passed 1986; Ord. 732, passed 1992; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.306 VIOLATIONS; NOTICE OF INFRACTION.

(A) The failure to comply with any conditions or restrictions lawfully imposed pursuant to a notice of infraction or director's decision not otherwise stayed under § 13.510 is a violation of this chapter. Failure to pay the civil fine shall be an infraction under this section. A notice of infraction issued under this section for failure to comply shall be of the same classification as the original infraction. The first notice of infraction issued under this section shall not be construed as a second offense under § 13.999.

(B) Except as provided in division (C) of this section, all enforcement actions under this section shall be brought before a hearings officer.

(C) Any enforcement action for failure to comply wherein the circumstances of the failure to comply by the party in violation are determined by the director to:

(1) Be a substantial risk to public safety;

(2) Be a substantial risk to the care and treatment of the subject animal(s); or

(3) Be a failure to pay past-due fines on three or more infractions within a 12-month period;

shall be brought in the state court as provided under ORS 203.810 and ORS 30.315.

(D) Notwithstanding division (A) of this section, a notice of failure to comply issued under this section that is based solely on the failure to pay the annual classified dog fee under § 13.404 shall be a Class C infraction.
('90 Code § 8.10.191) (Ord. 732, passed 1992; Ord. 773, passed 1993; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.307 NUISANCE ANIMALS; ORDER TO ABATE.

(A) Whenever a public nuisance animal, as determined by the director under this chapter is found on any premises within the jurisdiction of the county,

a written order may be given to the owner or keeper of the animal(s), or to the owner, occupant, person in possession, person in charge, or person in control of the premises where the animal(s) is (are) located, or a written order may be posted at such premises when none of the above people can be found at the premises. Such order shall be signed by the director and shall give the person or persons to whom it is directed no less than 72 hours (three days) nor more than 120 hours (five days) to remove and abate the nuisance.

(B) If, after the time given to comply with the notice has passed, the nuisance has not been abated, the director may summarily abate the nuisance by ordering impoundment of the animal(s) and assess the cost of such abatement against the owner or keeper of the animal(s), or the owner, occupant, person in possession, person in charge, or person in control of the premises where the animal(s) is (are) located, to be collected by suit or otherwise, in addition to the penalties for the violation thereof.

(C) It shall be unlawful to fail to comply with an order to abate a nuisance issued as provided in division (A) of this section and shall be construed as a class A infraction.

(D) (1) Any party served a written order to abate a nuisance as provided in division (A) of this section, may appeal the order as provided under § 13.508. The appeal under this section may be consolidated with any underlying infraction still pending and eligible for appeal under this chapter. Provided, any challenge to an enforcement action brought under division (C) of this section, including issues relating to the validity of the order to abate the nuisance, shall be joined in one state court proceeding, and there shall be no further administrative review or appeal except as directed by the court.

(2) Any animal impounded pursuant to the order to abate shall not be released until such time as the director, hearings officer, or court of competent jurisdiction orders such release.

(E) (1) Any enforcement action first brought under § 13.306(C) shall bar any enforcement action brought under this section in relation to the same event or series of events subject to regulation and enforcement under this chapter.

(2) Notwithstanding § 13.306(C), any enforcement action first brought under this section shall bar any enforcement action brought under § 13.306(C) in relation to the same event or series of events subject to regulation and enforcement under this chapter.
('90 Code § 8.10.192) (Ord. 850, passed 1996)

§ 13.308 KEEPING LIVESTOCK.

(A) Owners or keepers of livestock shall post at an entrance to property containing livestock a sign to be furnished by the director which shall display a number assigned by the director.

(B) The sign shall be posted so that it can be read from the nearest public property.

(C) An owner or keeper whose livestock are in violation of this chapter or any other statute pertaining to livestock shall reimburse the county for any expenses incurred for investigation of the violation if reimbursement is not otherwise provided for in § 13.512 or other applicable statutes. Reimbursement claims shall be a debt due the county and enforceable as such at law.
('90 Code § 8.10.210) (Ord. 156, passed 1977; Ord. 732, passed 1992; Ord. 850, passed 1996) Penalty, see § 13.999

DANGEROUS DOGS

§ 13.400 PURPOSE.

The purpose of this subchapter is to establish a procedure for dogs that pose a reasonably significant threat of causing serious injury to humans, other

animals or property are identified and subjected to precautionary restrictions before any such serious injury has occurred.
('90 Code § 8.10.265) (Ord. 517, passed 1996)

§ 13.401 LEVELS OF DANGEROUSNESS.

Classification of a dog as potentially dangerous shall be based upon specific behaviors exhibited by the dog. For purposes of this subchapter, behaviors establishing various levels of potentially dangerous dogs are the following:

(A) Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or domestic animal.

(B) Level 2 behavior is established if a dog, while at large, causes physical injury to any domestic animal.

(C) Level 3 behavior is established if a dog, while confined so as not to be at large, as defined in § 13.002, aggressively bites or causes any physical injury to any person.

(D) Level 4 behavior is established if:

(1) A dog, while at large:

(a) Aggressively bites or causes physical injury to any person; or

(b) Kills or cases the death of any domestic animal or livestock; or

(2) A dog classified as a Level 3 potentially dangerous dog repeats the behavior in division (C) of this section after the owner or keeper receives notice of the Level 3 classification.

(E) Notwithstanding divisions (A) through (D) of this section, the director shall have discretionary authority to refrain from classifying a dog as potentially dangerous, even if the dog has engaged in the behaviors specified in divisions (A) through (E) of this section, if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other similar mitigating or extenuating circumstances.
('90 Code § 8.10.270) (Ord. 517, passed 1996; Ord. 591, passed 1988; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.402 CLASSIFICATION.

(A) Classification of a dog as a dangerous animal shall be based upon the dog engaging in any of the following behaviors:

(1) A dog, whether or not confined, causes the serious physical injury or death of any person; or

(2) A dog is used as a weapon in the commission of a crime.

(B) Notwithstanding division (A) of this section, the director or Hearings Officer shall have discretionary authority to refrain from classifying a dog as a dangerous animal, even if the dog has engaged in the behaviors specified in division (A) of this section, if the director or Hearings Officer determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to human life or property.

(C) If a dog is classified under this section as a dangerous dog and the owner requests to keep the dog, the director shall have discretion to order the dog not be euthanized provided the dog is placed in a certified dangerous animal facility as defined under this chapter.

(D) The director in making a determination under division (C) of this section may consider any relevant evidence that addresses one or more of the following factors:

(1) Whether the dog constitutes an unreasonable risk to human life or property if housed in a dangerous dog facility;

(2) Whether the dog has completed the certified American Temperament Testing Society or Pet Partners as deemed appropriate; or

(3) The reasonable likelihood of no repeated behavior by the animal in violation of this chapter.
('90 Code § 8.10.271) (Ord. 850, passed 1996)

§ 13.403 POTENTIALLY DANGEROUS DOGS; APPEALS; RESTRICTIONS PENDING APPEAL.

(A) The director shall have authority to determine whether any dog has engaged in the behaviors specified in §§ 13.401 or 13.402. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the director. These observations and testimony can be provided by the county animal control officers or by other witnesses who personally observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

(B) The director shall have the discretion to increase or decrease a classified dog's restrictions based upon relevant circumstances.

(C) The director shall give the dog's owner or keeper written notice by certified mail or personal service of the dog's specified behavior, of the dog's classification as a potentially dangerous dog or dangerous animal, of the fine imposed, and of the restrictions applicable to that dog by reason of its classification. If the owner or keeper denies that the behavior in question occurred, the owner or keeper may appeal the director's decision to the hearings officer by filing a written request for a hearing with the director as provided under § 13.508.

(D) Upon receipt of notice of the dog's classification as a Level 1, 2, 3, or 4 potentially dangerous dog or dangerous animal pursuant to division (C) of this section, the owner or keeper shall comply with the restrictions specified in the notice unless reversed on appeal. Failure to comply with the specified restrictions shall be a violation of this chapter for which a fine can be imposed. Additionally, the director shall have authority to impound the dog pending completion of all appeals.

(E) If the director's decision or the hearings officer's decision finds that a dog has engaged in dangerous animal behavior, the dog shall be impounded pending the completion of a dangerous animal facility application or any appeals.
('90 Code § 8.10.275) (Ord. 517, passed 1996; Ord. 550, passed 1987; Ord. 591, passed 1988; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.404 REGULATION OF POTENTIALLY DANGEROUS DOGS.

In addition to the other requirements of this chapter, the owner or keeper of a potentially dangerous dog shall comply with the following conditions:

(A) Dogs classified as Level 1 dogs shall be restrained, so as not to be at large, as defined in § 13.002, by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's property, whenever that dog is outside the owner's or keeper's home and not on a leash.

(B) Dogs classified as Level 2 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's property. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance. In addition, the owner or keeper may be required to complete a responsible pet ownership program as prescribed by the director or a hearings officer.

(C) Dogs classified as Level 3 or Level 4 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's property, and the

owner or keeper shall post warning signs, which are provided by the director, on the property where the dog is kept, in conformance with rules to be adopted by the director. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance. The owner or keeper shall not permit the dog to be off the owner's or keeper's property unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person. In addition, the director may require the owner or keeper to satisfactorily complete a pet ownership program.

(D) Dogs classified as a dangerous animal as described in § 13.402 shall be euthanized or placed in a dangerous animal facility as determined by the director or hearings officer. A dog classified as a dangerous animal shall be confined within a secure enclosure with a double security gate and shall meet the requirements in division (C) of this section. In addition, the director or hearings officer may suspend, for a period of time specified by the director or hearings officer, that dog owner's or keeper's right to be the owner or keeper of any dog in the county, including dogs currently owned by that person.

(E) All dogs classified as dangerous animals, and determined by the director or hearings officer to be euthanized, shall be euthanized at any time not less than 20 days after the date of classification. Notification to the director of any appeal to the hearings officer as provided for in § 13.508(A), or to any court of competent jurisdiction, shall delay destruction of the dog until a date not less than 15 days after a final decision by the hearings officer or final judgment by the court.

(F) To insure correct identification, all dogs that have been classified as potentially dangerous or dangerous animals shall be marked with a permanent identifying mark, micro-chipped, photographed, and may be fitted with a special tag or collar determined by the director at the owner's expense. The director shall adopt rules specifying the type of required identification.

(G) In addition to the normal licensing fees established by § 13.512, there shall be an annual fee in an amount set by Board resolution for dogs at each classification level. This additional fee shall be imposed at the time of classification of the potentially dangerous dog, and shall be payable within 30 days of notification by the director. Annual payment of this additional fee shall be payable within 30 days of notification by the director.

(H) The owner or keeper of a potentially dangerous dog or dogs classified as dangerous animals shall not permit the warning sign to be removed from the secure enclosure, and shall not permit the special tag or collar to be removed from the classified dog. The owner or keeper of a potentially dangerous dog or dogs classified as dangerous animals shall not permit the dog to be moved to a new address or change owners or keepers without providing the director with ten days' prior written notification.

(I) (1) Any owner or keeper of a classified potentially dangerous dog or a dog classified as a dangerous animal may apply to the director, in writing, to have the restrictions reduced or removed.

(2) The following conditions must be met:

(a) Level 1 or Level 2 dogs have been classified for one year without further incident, or two years for Level 3 or Level 4 dogs, four years for dogs classified as dangerous animals;

(b) The owner or keeper provides the director with written certification of satisfactory completion of obedience training for the dog classified, with the owner or keeper;

(c) There have been no violations of the specified regulations; and

(d) In addition, the director may require the dog owner or keeper to provide written verification that the classified dog has been spayed or neutered.

(3) Any reclassification request submitted under this division must include review fee in an amount set by Board resolution.

(4) Any other condition may be ordered by the director or hearings officer at the time of classification.

(5) When the owner or keeper of a potentially dangerous dog meets all of the conditions in this division, the restrictions for Level 1 and Level 2 classified dogs may be removed. Restrictions for Level 3 and Level 4 dogs, and dogs classified as dangerous animals may be removed, with the exception of the secure enclosure.
('90 Code § 8.10.280) (Ord. 517, passed 1996; Ord. 591, passed 1988; Ord. 732, passed 1992; Ord. 773, passed 1993; Ord. 823, passed 1995; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.405 REPORTING REQUIREMENTS.

Any person who observes or has evidence of behavior as described in §§ 13.401 or 13.402 shall forthwith notify the director.
('90 Code § 8.10.285) (Ord. 517, passed 1996; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.406 OTHER RESTRICTIONS; AUTHORITY TO IMPOSE.

(A) The director or hearings officer shall have authority to determine whether any infraction of this chapter warrants other restrictions and conditions be imposed on the party in violation as provided in § 13.999, in addition to the civil fine.

(B) This determination may be based upon an investigation that includes observation of and testimony about the circumstances and the nature of the infraction, including the animal's behavior, the owner's control of the animal, the care and treatment of the animal, and other relevant evidence as determined by the director. These observations and testimony can be provided by the county animal control officers or by other witnesses who personally observed the circumstances. They shall sign a written statement attesting to the observed circumstances and agree to provide testimony, if necessary.

(C) The director shall give the party in violation written notice by regular or certified mail or personal service of the director's decision imposing a fine and any conditions or restrictions under this section and § 13.999. The notice shall contain a brief explanation why the additional conditions and restrictions were imposed. If the party wishes to challenge the director's decision, the party may appeal, as provided under § 13.508.
('90 Code § 8.10.130) (Ord. 732, passed 1992; Ord. 850, passed 1996)

ADMINISTRATION AND ENFORCEMENT

§ 13.500 POWERS AND DUTIES OF DIRECTOR.

(A) It shall be the responsibility of the director, and those the director designates, to enforce provisions of this chapter.

(B) The director and persons duly authorized under ORS 204.635(2) shall be empowered to exercise the authority of peace officers to the extent necessary to enforce this chapter.

(C) Persons designated by the director to enforce this chapter shall bear satisfactory identification reflecting the authority under which they act, which identification shall be shown to any person requesting it.

(D) No person shall intentionally hinder or interfere with or prevent the exercise of any powers conferred under this chapter or the state statutes incorporated into this chapter under § 13.507, nor shall any person knowingly provide false information to the director. A violation issued under this division is a class C misdemeanor.

(E) The director may waive or modify any of the standards for licensing of facilities as the director considers appropriate to meet peculiar requirements of a particular animal or species.

(F) The director shall be authorized to reduce or waive any fee prescribed by this chapter except those related to licensing and registration.
('90 Code § 8.10.030) (Ord. 156, passed 1977; Ord. 379, passed 1983; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.501 NOTICE OF INFRACTION.

(A) Whenever a county animal control officer or person designated by the director has reasonable grounds to believe that an animal or facility is in violation of this chapter, that officer shall be authorized to issue the owner or keeper notice of civil infraction.

(B) The notice shall contain the following information:

(1) The name and address, if known, of the owner or person in violation of this chapter and description of the animal, if applicable;

(2) The code section allegedly violated plus a brief descriptive statement of the nature of the violation;

(3) A statement of the amount due as a civil fine for the infraction and notice that the animal is to be impounded if impoundment is authorized hereunder;

(4) A statement explaining all fines are due within 30 days of service of the notice;

(5) A statement advising that if any civil fine is not timely paid, the failure to comply may lead to enhancement of the original fine or additional fines;

(6) A statement that the determination of violation is final unless appealed by filing a written notice of appeal including a fee, in an amount set by Board resolution, with the director of animal control Division within 20 days of the date of the notice of infraction was served; and

(7) A statement that an admission of infraction would be on record and could lead to the enhancement of fine on any subsequent infraction issued under this chapter as provided under § 13.999.
('90 Code § 8.10.035) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.502 SERVICE.

The notice of infraction shall be served on the owner or keeper of the animal or facility in violation of this chapter by personal service or by regular and certified mail with return receipt requested.
('90 Code § 8.10.036) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.503 DISMISSAL OF PET LICENSE VIOLATIONS.

Notices of infraction issued for violations of the pet licensing requirement as set forth in §§ 13.100 through 13.103 shall be dismissed by the director upon reasonable proof that the required pet license(s) have been obtained within ten days of service of the notice(s) of infraction.
('90 Code § 8.10.037) (Ord. 732, passed 1992)

§ 13.504 ADMISSION OF INFRACTION; CONDITIONS.

(A) Any party who is issued a notice of infraction for any offense listed under § 13.999(A) may, in lieu of requesting a hearing, admit the infraction and submit the fine as stated on the notice of infraction to the Animal Control Division. The party may attach a written explanation of mitigating circumstances with the payment of the fine.

(B) Any written explanations submitted under division (A) shall be reviewed by the hearings officer. The hearings officer shall have discretion to reduce the submitted fine and refund any portion not retained based on the written explanation.

(C) When a person issued a notice of infraction for violation of any of the following sections of this chapter: § 13.305(B)(2), (6), (11), (12), or (13); or § 13.306(A), the violation may be compromised as provided in division (D) of this section.

(D) (1) If the person injured, damaged, or otherwise detrimentally impacted by the commission of the violation acknowledges in writing any time before the final decision of the director, hearings officer, or a court of requisite jurisdiction, that the person has received satisfaction for the injury, damage or detrimental impact, the director, hearings officer or court may in their discretion, on payment of any cost or expense incurred, order the notice of infraction dismissed.

(2) The director, hearings officer, or court when issuing an order to dismiss under this section, may impose additional conditions or requirements upon the party issued the violation, if in their determination the additional requirements are necessary to further protect the public health or safety.

(3) Any condition or requirement imposed pursuant to division (D)(2) of this section shall be complied with prior to the entry of the final order dismissing the notice of infraction(s).

(E) The order authorized by division (D) of this section, when made and entered by the director, hearings officer or court is a bar to another enforcement action for the same violation.
('90 Code § 8.10.038) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.505 IMPOUNDMENT.

(A) The director shall operate, maintain or provide for an adequate facility to receive, care for and safely confine any animal delivered to the director's custody under provisions of this chapter, which facility shall be accessible to the public during reasonable hours for the conduct of necessary business concerning impounded animals.

(B) Any animal may be impounded and held at the facility when it is the subject of a violation of this chapter, when an animal requires protective custody and care because of mistreatment or neglect by its owner or keeper or when otherwise ordered impounded by a court, a hearings officer, or the director.

(C) An animal shall be considered impounded from the time the director or the director's designee takes physical custody of the animal.

(D) Impoundment is subject to the following holding period and notice requirements:

(1) An animal bearing identification of ownership shall be held for 144 hours from time of impoundment. The director shall make reasonable effort within 24 hours of impoundment by phone to give notice of the impoundment to owner or keeper and, if unsuccessful, shall mail written notice within 48 hours of impoundment to the last known address of the owner or keeper advising of the impoundment, the date by which redemption must be made and the fees payable prior to redemption release.

(2) An animal for which no identification of ownership is known or reasonably determinable shall be held for 72 hours from time of impoundment before any disposition may be made of the animal.

(3) Animals held for periods prescribed under this section, or as otherwise required by ORS 433.340 or 433.390, and not redeemed by the owner or keeper, shall be subject to such means of disposal as the director considers most humane.

(4) Animals delivered for impoundment by a peace officer who removed the animal from possession of a person in custody of the peace officer shall be held for the period prescribed in division (D)(1) of this section. A receipt shall be given the peace officer, who shall deliver the receipt to the person in custody from whom the animal was taken. The receipt shall recite redemption requirements and shall serve as the notice required by this section.

(E) (1) Any impounded animal shall be released to the owner or keeper or the owner's or keeper's authorized representative upon payment of impoundment, care, rabies, vaccination deposits, license fees, past due fines, and all fees and deposits related to potentially dangerous dog regulations with the addition of the following conditions:

(a) Any animal impounded by court, hearings officer's or director's order shall be released to the owner or keeper or the owner's or keeper's authorized representative upon payment of all fees required in division (E)(1) of this section, and upon receipt of a written order of release from the court of competent jurisdiction or the hearings officer or the director issuing the order.

(b) Any classified potentially dangerous dog shall be released to the owner or keeper or the owner's or keeper's authorized representative upon payment of all fees required in division (E)(1) of this section, and upon verification of satisfactory compliance with the regulations required in §§ 13.401 through 13.406. Failure to be in satisfactory compliance with the potentially dangerous dog regulations within ten days of impoundment shall result in the owner or keeper forfeiting all rights of ownership of the dog to the county.

(2) An animal held for the prescribed period and not redeemed by its owner or keeper, and which is neither a dangerous or exotic animal nor in an unhealthy condition, may be released for adoption subject to the provisions of § 13.506.

(3) The director shall dispose of animals held for the prescribed period without redemption or adoption only by humane means.

(4) Any device attached to any animal upon impoundment shall be retained, 30 days, by the director should the animal be disposed of as provided in division (E)(3) of this section. Otherwise, the device shall accompany the animal when redeemed or adopted.
('90 Code § 8.10.040) (Ord. 156, passed 1977; Ord. 276, passed 1981; Ord. 379, passed 1983; Ord. 591, passed 1988; Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.506 RELEASE FOR ADOPTION.

(A) An animal may be released for adoption or transferred to another adoption agency, approved by the director, subject to the following conditions:

(1) The adoptive owner or keeper shall agree in writing to furnish proper care to the animal in accordance with this chapter;

(2) Payment of required fees, however, animals transferred to another adoption agency are exempt from the requirement of paying adoption fees;

(3) In the case of a fertile dog or cat, a surgical prepayment deposit in an amount set by Board resolution, refundable upon furnishing evidence that the animal has been rendered sexually unreproductive; and

(B) The director may decline to release an animal for adoption under any of the following circumstances:

(1) The prospective adoptive owner or keeper has a history of violations of this chapter or has been convicted of an animal-related crime;

(2) The prospective adoptive owner or keeper has inadequate or inappropriate facilities for confining the animal and for providing proper care to the animal as set out in § 13.305;

(3) The existence of other circumstances which, in the opinion of the director, would endanger the welfare of the animal or the health, safety and welfare of the people residing in the county. In making a decision under this division, the director shall consider the guidelines adopted by the county Animal Adoption Panel; or

(4) The animal is a dangerous animal.
('90 Code § 8.10.045) (Ord. 276, passed 1981; Ord. 379, passed 1983; Ord. 732, passed 1992; Ord. 850, passed 1996) Penalty, see § 13.999

§ 13.507 STATE LAW; ENFORCEMENT.

(A) Pursuant to ORS 609.015(1), this chapter supersedes enforcement in the county of the following state statutes: ORS 609.010(2), 609.030, 609.040, 609.060, 609.090, 609.092, 609.095, 609.097, 609.100, 609.110, 609.150, 609.155, 609.160, 609.170, 609.180, 609.190.

(B) Enforcement of ORS 433.340 through 433.390 shall be the responsibility of the director and the county Health Officer. Such enforcement procedures shall comply with the state law and are not subject to the enforcement provisions of this chapter.
('90 Code § 8.10.050) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.508 APPEALS.

(A) Any party served a notice of infraction or director's decision or order under this chapter may appeal the infraction or director's decision by submitting a notice of appeal in writing along with the hearing fee in an amount set by Board resolution to the animal control division within 20 days of the date the notice of infraction or director's decision or order was served on the party.

(B) Any party whose application for a facility license or dangerous animal facility license was denied, revoked or issued subject to conditions may appeal the license denial, revocation or conditional approval by submitting a notice of appeal in writing along with the hearing fee in an amount set by Board resolution to the animal control division within 20 days of the date the denial or conditional approval was mailed to the applicant by certified mail.
('90 Code § 8.10.054) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.509 HEARINGS PROCEDURE.

(A) The Board shall adopt procedural rules governing the conduct and scheduling of the appeal hearings under this chapter.

(B) Upon the receipt of a timely appeal, animal control division shall set the matter for hearing on the next available date scheduled for Animal Control hearings.

(C) Any party appealing a notice of infraction or license denial/revocation or director's decision or order under this chapter shall be given a written notice of the hearing date no less than ten days prior to the scheduled hearing.

(D) The hearings officer shall hold a public hearing on any timely appeal from a notice of infraction, director's decision or order, or the denial/revocation of a facility license. The party who brought the appeal or any other person having relevant evidence concerning the nature of the infraction or license denial/revocation shall be allowed to present testimony and documentary evidence at the hearing. The hearings officer may consider mitigating or extenuating circumstances presented on behalf of a party.

(E) If the hearing is held to address a notice of infraction or director's decision issued under §§ 13.403 or 13.406, the hearings officer shall determine whether the infraction contained in the notice did occur. The hearings officer shall have the same authority as the director under § 13.403 when conducting potentially dangerous dog hearings.

(F) If the hearing is held to address a facility license condition, denial or revocation, the hearings officer shall determine whether the license conditions were rightfully imposed or the license was rightfully denied or revoked as provided under § 13.152.

(G) The hearings officer shall issue a written decision containing findings of fact addressing the allegations contained in the notice of infraction, the director's decision, or the license denial/revocation under §§ 13.150 through 13.153. The decision shall clearly state the hearings officer's conclusion and the reasoning based on the findings of fact. The decision shall be signed and dated by the hearings officer and shall be served by personal service or regular and certified mail to the last known address of the party who filed the appeal. The decision shall be final on the date of personal service or three days after mailing.

(H) In all appeals under this chapter, the hearings officer shall have discretion ordering conditions, restrictions and penalties.

(I) Failure of a party to file an appeal as provided in this section or unexcused failure of a party to appear at a duly scheduled hearing shall constitute a waiver by the party of any further appeal under this chapter. Upon the entry of a waiver in the record, the last decision issued by the animal control division shall become final.
('90 Code § 8.10.055) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.510 STAY OF ENFORCEMENT; EXCEPTIONS.

(A) Enforcement of any notice of infraction or decision of the director shall be stayed during the pendency of an appeal, except:

(1) Restrictions or conditions placed on animal owner or keeper by the director under §§ 13.400 through 13.406; or

(2) The impoundment of an animal as required under this chapter or because it was necessary for the protection of the animal under § 13.505.

(B) Notwithstanding division (A) of this section, in any case wherein the subject animal has been impounded and is to be euthanized pursuant to a hearings officer's decision, a party seeking a writ of review under ORS 34.010 to 34.100 of that decision, may obtain a stay of the destruction of the animal pending the resolution of the writ of review proceeding only as provided in this division. The party shall submit a written notice to the director within 15 days of the date of the hearings officer's decision of the party's intent to file a writ of review. The written notice shall be submitted with a deposit as required under § 13.511, if applicable.

(C) In any case subject to division (B) of this section, the written notice to the director shall stay the destruction of the animal until a date not less than 15 days after final judgment by the court or the party's rights have expired under ORS 34.030.
('90 Code § 8.10.056) (Ord. 732, passed 1992)

§ 13.511 IMPOUNDMENT PENDING APPEAL.

(A) In any appeal wherein the subject animal has been impounded pending appeal of director's decision to the hearings officer, the owner or keeper of the animal shall be required to post a deposit with the director in an amount set by Board resolution at the time an appeal is requested to apply towards the expense of sheltering the animal during the appeal process.

(B) If an animal not previously impounded under this chapter is subsequently ordered to be impounded by a hearings officer and the owner or keeper appeals the hearings officer's decision by writ of review to the circuit court, the owner or keeper of the animal shall be required to post a deposit with the director in an amount set by Board resolution at the time the notice of intent to file the writ of review is submitted under § 13.510(B) to apply towards the expense of sheltering the animal during the pendency of the writ of review proceeding.

(C) In either situation described above in division (A) or (B) of this section, if the finding of a violation is upheld on appeal, the animal's owner or keeper shall be liable for the cost of the animal's impoundment and shall pay all fees incurred for sheltering and caring for the animal. If the animal control division's finding is reversed on appeal, the deposit shall be refunded.
('90 Code § 8.10.057) (Ord. 732, passed 1992; Ord. 850, passed 1996)

§ 13.512 FEES.

Fees shall be imposed under this chapter in amounts set by Board resolution.('90 Code § 8.10.220) (Ord. 156, passed 1977; Ord. 195, passed 1979; Ord. 262, passed 1981; Ord. 379, passed 1983; Ord. 384, passed 1983; Ord. 480, passed 1985; Ord. 683, passed 1991; Ord. 732, passed 1992; Ord. 823, passed 1995; Ord. 850, passed 1996; Ord. 888, passed 1998)

§ 13.999 PENALTY.

(A) *Classification.* Violations of the provisions of this chapter shall be classified as provided below.

(1) *Class A infractions.* Violations of the following sections or divisions shall be Class A infractions:

(a) Section 13.500;

(b) Section 13.300;

(c) Section 13.304;

(d) Section 13.305(B)(3), (B)(8) - (B)(10), (B)(12), (B)(13); and

(e) Section 13.307.

(2) *Class B infractions.* Violations of the following sections or divisions of this chapter shall be Class B infractions:

(a) Section 13.506(A)(4);

(b) Section 13.301; and

(c) Section 13.305(B)(4) - (B)(7), (B)(11).

(3) *Class C infractions.* Infractions of the following sections or divisions of this chapter shall be Class C infractions:

(a) Section 13.101;

(b) Section 13.303;

(c) Section 13.305(B)(1), (B)(2); and

(d) Section 13.318.

(4) *Other infractions.* Except as provided under §§ 13.306 and 13.307, any other violation of this chapter not listed in this division shall be a Class A infraction.

(B) *Fines.*

(1) *Class A infraction.* A fine for Class A infraction shall be no less than $100 nor more than $500 for a first offense. The fine for a second Class A infraction committed within 12 months from the date that the first offense was committed shall be no less than $200, nor more than $500. The fine for a third Class A infraction committed within 12 months from the date that the first offense was committed, the fine shall be not less than $500.

(2) *Class B infraction.* A fine for Class B infraction shall be no less than $50 nor more than $250 for a first offense. If the violator committed either a Class A or B infraction within the 12-month period immediately prior to the date of the second infraction, the fine shall be no less than $100 nor more than $250. If the violator has committed two or more Class A or B infractions within the 12-month period immediately prior to the date of the most recent notice of infraction for a Class B infraction, the fine shall be $250.

(3) *Class C infraction.* A fine for a Class C infraction shall be no less than $30 nor greater than $150 for a first offense. If the violator has committed a Class A, B, or C infraction within the 12-month period immediately prior to the date of the second infraction, the fine shall be no less than $50 nor more than $150. If the violator has committed two or more Class A, B, or C infractions within the 12-month period immediately prior to the date of the most recent notice of infraction for a Class C infraction, the fine shall be $150.
(Ord. 156, passed 1977; Ord. 732, passed 1992; Ord. 773, passed 1993; Ord. 823, passed 1995; Ord. 850, passed 1996)

(C) *Facility operations violations.*

(1) The operation of a facility without a license for which licensing is required under §§ 13.150 through 13.153 shall be a Class A infraction, and, in addition, the director or hearings officer may order removal of the animals housed in the facility or allow the facility operator to find suitable homes for the animals within 30 days or to be impounded subject to § 13.505.

(2) The operation of a facility by a person holding a facility license under §§ 13.150 through 13.153, in violation of any provision of the license applicable to that license or to the care of the animals housed in the facility, shall be a Class A infraction; and in addition the director or hearings officer may order removal of any or all animals from the facility for impoundment subject to § 13.505 or allow the facility operator to find suitable homes for the animals within 30 days.
(Ord. 156, passed 1977; Ord. 732, passed 1992; Ord. 850, passed 1996)

(D) *Additional conditions and restrictions.* In addition to the monetary civil penalties imposed for infractions of this chapter, and the regulations applicable under § 13.404, the director and the hearings officer shall have authority to order additional restrictions and conditions upon the party in violation, including but not limited to the following:

(1) Require the owner or keeper and animal to satisfactorily complete an obedience program approved by the director or hearings officer at owner's or keeper's expense;

(2) Require the owner or keeper to attend a responsible pet ownership program adopted or approved by the director or hearings officer, at the owner's or keeper's expense;

(3) Require the owner or keeper of an animal that unreasonable causes annoyance, as described in § 13.190, to keep the animal inside the owner or keeper's residence during hours specified by the director or hearings officer;

(4) Suspend the animal owner's or keeper's right to own or keep any animal in the county for a period of time specified by the director or hearings officer;

(5) Require the owner or keeper to have the animal surgically sterilized within a time period determined by the director or hearings officer; and

(6) Any other condition(s) that would reasonably abate the infraction.

(E) *Late payment penalties.* If a civil penalty is unpaid after 30 days, the fine then due shall be increased by 25% of the original amount; if the civil penalty is not paid after 60 days, the fine then due shall be increased by 50% of the original amount.

(F) *Collection.* At the discretion of the director, any civil penalty(ies) not paid within 30 days from the date of issuance of the notice of infraction may be assigned to a collections agency for collection.
(Ord. 156, passed 1977; Ord. 732, passed 1992; Ord. 773, passed 1993; Ord. 823, passed 1995; Ord. 850, passed 1996)

CHAPTER 15: SHERIFF

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Sheriff, see Charter § 6.50(1)
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Community corrections, see ORS, Ch. 423
Correctional facilities, see ORS, Ch. 169
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GENERAL PROVISIONS

§ 15.001 DUTIES.

The Sheriff shall perform the functions of that office prescribed by state law and shall administer the jails and corrections facilities of the county.
('90 Code § 2.30.800) (Ord. 336, passed 1982; Ord. 359, passed 1983; Ord. 458, passed 1985)

§ 15.002 FEES.

(A) Except as provided by division (B) of this section, the Sheriff's office shall collect fees as set by Board resolution for providing documents or services.

(B) Notwithstanding to provisions of division (A) of this section, the Sheriff may furnish any service or copy of a public record of the Sheriff's office without charge or at a substantially reduced fee if the Sheriff determines that the waiver or reduction of fees is in the public interest because making the service or record available primarily benefits the general public. (See ORS 192.440(4))
('90 Code § 5.10.420) (Ord. 105, passed 1975; Ord. 157, passed 1977; Ord. 278, passed 1981; Ord. 308, passed 1982; Ord. 513, passed 1986; Ord. 646, passed 1990; Ord. 712, passed 1992)

DEFENDANT EMPLOYMENT

§ 15.025 TITLE, PURPOSE AND SCOPE.

This subchapter shall be known as the Convict Employment Law, the purpose of which is to comply with provisions of ORS 169.170. It authorizes and directs the Board adopt rules and regulations regarding employment of defendants sentenced to serve terms in the correctional facilities of the county, that apply to all adult inmates of county correctional facilities designated to perform authorized employment.
('90 Code § 2.70.205) (Ord. 398, passed 1983)

§ 15.026 ELIGIBILITY.

(A) Any convict sentenced to a term in a county adult correctional facility by any court, whether in default of the payment of a fine, or committed for a definite number of days, and who, in the judgment of the Sheriff, has satisfactorily met the rules governing conduct within the facility, has the physical qualifications therefor and who has no legal or medical restraints prohibiting such work, shall be eligible to perform authorized employment under this subchapter.

(B) Any eligible convict may be required by the Sheriff to perform work prescribed, whether or not such eligible convict has volunteered so to perform, and failure to comply with the Sheriff's order to perform such work shall be the basis for appropriate disciplinary proceedings.
('90 Code § 2.70.230) (Ord. 398, passed 1983)

§ 15.027 WORKERS' COMPENSATION.

Persons authorized under these rules to perform authorized employment are subject workers of the county entitled and restricted to benefits provided by the state Workers' Compensation Act for any injuries incurred in the performance of such employment, pursuant to ORS 656.041.
('90 Code § 2.70.230) (Ord. 398, passed 1983)

§ 15.028 COMPENSATION.

No convict engaged in employment pursuant to these rules shall be paid more than $2 per day. The Sheriff is authorized to prescribe levels of payment consistent with the work assigned, in amounts not to exceed those provided by Board resolution. Trusty payment for inmates who were assigned to public works projects will be reimbursed to the Inmate Welfare Fund by the public works agency which uses the trusty to perform the work. Workdays shall consist of eight hours, except in the case of an emergency.
('90 Code § 2.70.230) (Ord. 398, passed 1983)

§ 15.029 ADDITIONAL BENEFITS.

Unless otherwise ordered by the court or legal authority, a convict who performs work under these rules shall be entitled to credit against the sentence originally meted, payment, or both, without regard to other credits reducing said sentence, in accordance with ORS 169.120. Notwithstanding § 15.027, no convict performing authorized employment, shall be entitled to any benefits as an employee of the county.
('90 Code § 2.70.230) (Ord. 398, passed 1983; Ord. 896, passed 1998)

§ 15.030 AUTHORIZED EMPLOYMENT.

No convict shall be assigned under these rules to perform employment unless such employment involves work on public roads of the county or such other work of a public nature as may include, but not be limited to, county facilities and grounds, and as authorized by ORS 169.190. In no event shall such work include application of skills requiring certification.
('90 Code § 2.70.230) (Ord. 398, passed 1983)

§ 15.031 SUPERVISION.

Convicts may be delivered by the Sheriff to the care and custody of any supervisory person authorized to direct and supervise the performance of authorized employment upon facilities of the county or other public works. Such delivery shall not constitute release from detention and if a convict departs the custody of such assigned supervisor, the convict shall be subject to prosecution under state law for escape or any related offense.
('90 Code § 2.70.230) (Ord. 398, passed 1983)

§ 15.032 TERMINATION OF EMPLOYMENT.

The Sheriff is authorized, for whatever cause, to terminate the authorized employment of any convict assigned under these rules to authorized employment, which decision is not subject to review.
('90 Code § 2.70.230) (Ord. 398, passed 1983)

§ 15.033 ADMINISTRATION.

This subchapter shall be administered by the Sheriff, subject to review by the Board.
('90 Code § 2.70.220) (Ord. 398, passed 1983)

CURFEW FOR MINORS

§ 15.050 CURFEW ESTABLISHED.

It shall be unlawful for any minor under 18 years of age to be, or remain in or upon any street, highway, park, alley or other public place outside incorporated cities in the county between the hours specified in § 15.051, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by law to have the care and custody of the minor, or unless such minor is then and there engaged in a lawful pursuit or activity which requires his presence in or upon such street, highway, park, alley or other public place during the hours specified in § 15.051.
('90 Code § 7.45.100) (Ord. 1963, passed 1963) Penalty, see § 15.999

§ 13.051 CURFEW HOURS.

For the purposes of this subchapter, the applicable hours of curfew shall be:

(A) As to minors under 14 years of age who have not begun high school, the hours shall be between 9:15 p.m. and 6:00 a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 10:15 p.m. and 6:00 a.m. of the following morning.

(B) As to minors 14 years of age or over who have begun high school, the hours shall be between 10:15 p.m. Sunday, Monday, Tuesday, Wednesday or Thursday, and 6:00 a.m. of the following morning, and between 12:00 midnight on Friday or Saturday, or any legal holiday, and 6:00 a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 12:00 midnight and 6:00 a.m. of the following morning.
('90 Code § 7.45.200) (Ord. 1963, passed 1963) Penalty, see § 15.999

TOWING SERVICES

§ 15.100 TITLE.

This subchapter shall be known and cited as the Towing Law and may be so cited.
('90 Code § 6.20.105) (Ord. 63, passed 1972)

§ 15.101 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

DOING BUSINESS IN THE COUNTY. Any acceptance of tows for hire as defined in this section.

EMPLOYEE. An employee, agent or driver of towing vehicle, employed by the licensee in the business of towing for hire.

LICENSE. A nontransferable, nonassignable annual permit, personal to whom it is issued, issued by the Sheriff authorizing the person whose name appears on it as a licensee to tow vehicles in the county for hire.

LICENSEE. A person possessing a valid license under this subchapter.

MOTOR VEHICLE RELATED CONVICTIONS.

(1) Conviction upon a charge of manslaughter or criminally negligent homicide resulting from operation of a motor vehicle;

(2) Conviction or forfeiture of bail upon two charges of reckless driving within the preceding 12 months;

(3) Conviction upon a charge of failing to stop and disclose identity at the scene of an accident, where the driver was involved in that accident;

(4) Conviction upon a charge of driving while under the influence of intoxicating liquor or dangerous or narcotic drugs;

(5) Conviction for any crime punishable as a felony in the commission of which a motor vehicle was used; or

(6) Conviction for any crime upon the charge of theft, burglary, arson or robbery of a motor vehicle.

TOW FOR HIRE. The towing for a price or charge of a wrecked, abandoned, disabled or nonfunctional motor vehicle from any location within the county, outside incorporated cities, whether originating upon public or private property, regardless of whether the destination for such tow for hire lies within, or outside, the county.

TOWING VEHICLE. A truck, automobile or other vehicle designed for the purpose of towing motor vehicles or so adapted for that purpose.
('90 Code § 6.20.110) (Ord. 63, passed 1972; Ord. 246, passed 1980)

§ 15.102 POLICY AND PURPOSE.

The Board has determined that it is necessary to regulate and eliminate certain towing practices and to insure the use of safe equipment and vehicles in order to protect the health, safety and welfare of the people of the county, and this subchapter shall be liberally construed to effectuate this purpose.
('90 Code § 6.20.115) (Ord. 63, passed 1972)

§ 15.103 LICENSE REQUIRED.

It shall be unlawful for any person to do business in the county without a license.
('90 Code § 6.20.120) (Ord. 63, passed 1972) Penalty, see § 15.999

§ 15.104 NOTICES.

All notices shall be in writing and, if mailed, then postpaid by certified or registered mail, return receipt requested, to the addressee's last known address, and shall be considered given at the date of mailing.
('90 Code § 6.20.150) (Ord. 63, passed 1972)

§ 15.105 APPLICATION FOR LICENSE.

(A) Applications for licenses shall be made upon forms provided by the Sheriff and shall state the following:

(1) The name, home address and proposed business address of the applicant;

(2) The number of towing vehicles, license numbers, model types, location, description and hourly availability of the towing vehicles owned or operated by the applicant;

(3) The address and telephone number of any storage locations owned, operated or used by the applicant;

(4) The existing rate schedule charged by the applicant for towing and storage services;

(5) The name, home address and age of all of the applicant's employees engaged in the business of towing for hire, full disclosure of any motor vehicle related convictions of the applicant or employees which are known or should have been known to the applicant, and the chauffeur license numbers of the applicant's employee-drivers; and

(6) Such other information as the Sheriff shall find reasonably necessary to effectuate the purpose of this subchapter.

(B) The application to the Sheriff must be accompanied by an application fee in an amount set by Board resolution. Payment of the application fee shall cover the license fee for the balance of the first annual license.
('90 Code § 6.20.160) (Ord. 63, passed 1972; Ord. 157, passed 1977; Ord. 195, passed 1979)

§ 15.106 PROOF OF INSURANCE REQUIRED.

(A) No license shall be issued to an applicant until the applicant has deposited with the Sheriff the following memorandums or certificates of insurance:

(1) Public liability insurance with insurers licensed to do business in Oregon, in an amount set by Board resolution.

(2) Cargo insurance with insurers licensed to do business in the state, in an amount set by Board resolution.

(B) Each memorandum or certificate of insurance must contain an endorsement providing for ten days' notice to the Sheriff in the event of any material change or cancellation.
('90 Code § 6.20.170) (Ord. 63, passed 1972) Penalty, see § 15.999

§ 15.107 EQUIPMENT REQUIRED.

Each towing vehicle shall be equipped and maintained with the following:

(A) Tires of not less than 7.00 x 15 in size, with tread of not less than 3/32 of an inch and six-ply rating on rims secured with not less than six lug bolts or equivalent holding power;

(B) Wire rope with a safe working limit of 3,500 pounds as established by the American Society of Mechanical Engineers;

(C) Four-way flashing system, including one flashing amber light or other color prescribed by state law, of not less than five inches in diameter, mounted on the towing vehicle. In addition, at least one light must be provided mounted behind the cab of the towing vehicle, which, as determined by the Sheriff, has the capacity to light the scene of an accident under darkened or foggy conditions;

(D) At least one fire extinguisher with an Underwriters' Laboratory rating of at least 5B:C units, one broom, one shovel and one container for debris;

(E) A dolly available for the purpose of towing motor vehicles where it is necessary to tow without damage to the towed vehicle;

(F) Equipment capable of providing minor repairs, including, but not limited to, polarity protected starting equipment, tire changing equipment and gasoline;

(G) Portable auxiliary brake light, turn light and taillight systems for use on towed vehicles whose lighting systems are inoperable; and

(H) Such other equipment as required by state laws.
('90 Code § 6.20.180) (Ord. 63, passed 1972)

§ 15.108 INVESTIGATION AND INSPECTION BY Sheriff.

(A) Within 30 days after receipt of an application, the Sheriff shall cause an investigation to be made of the applicant and the applicant's towing vehicles, equipment and employees, including police record checks of applicant and employees.

(B) All towing vehicle and equipment owned or operated by the applicant shall be inspected by the Sheriff prior to the issuance of a license. Towing vehicles and towing equipment must meet the state motor vehicles code requirements, the requirements of this subchapter and such other reasonable safety requirements as the Sheriff finds necessary for public safety.

(C) Inspection of all tow vehicles and towing equipment owned or operated by the licensee may be

made from time to time as may reasonably be determined by the Sheriff for the purpose of determining continued compliance with this subchapter.
('90 Code § 6.20.190) (Ord. 63, passed 1972)

§ 15.109 STANDARDS FOR ISSUANCE.

(A) The Sheriff shall issue a license when the Sheriff finds as a result of the investigation and inspection that:

(1) An accurate and complete application has been filed and fees are paid;

(2) Insurance policies required by § 15.106 have been procured;

(3) Vehicle and equipment inspection has been satisfactorily completed under § 15.108;

(4) All drivers of the applicant's towing vehicles have valid chauffeurs' licenses; and

(5) The requirements of this subchapter and all other governing laws and ordinances have been met.

(B) A motor vehicle related conviction of the applicant or the applicant's employees may be grounds for denial or revocation of a license if the Sheriff determines that the denial or revocation is in accordance with the objectives of this subchapter and necessary for the health, safety and welfare of the people of the county.
('90 Code § 6.20.200) (Ord. 63, passed 1972)

§ 15.110 DENIAL OR REVOCATION OF LICENSE.

(A) The Sheriff may initiate denial or revocation of a license upon finding that a licensee fails to meet the requirements of this subchapter or is operating in violation of this subchapter or existing federal, state or local laws or ordinances.

(B) Any person whose license has been denied or revoked may, after 30 days from the date of the denial or revocation, reapply upon the prepayment of an application fee in an amount set by Board resolution. That sum shall not be credited to the applicant's annual license fee.

(C) Any person who has had a license denied or revoked two times within one year, or who has a total of four denials or revocations, may be disqualified from applying for a license for a period not to exceed two years.

(D) The Sheriff shall, upon finding that a violation of this subchapter has occurred, provide written notice to the licensee of the violation and shall demand that the violation, if continuing, be corrected within 30 days from the date of the notice. The notice shall describe with reasonable certainty the violation and the action necessary to correct the violation.

(E) The licensee shall notify the Sheriff when corrective action under division (D) of this section has been taken. The Sheriff shall then make an inspection, if necessary.

(F) The licensee's failure to take corrective action in the time required shall be cause for license revocation unless the licensee has filed notice of appeal, which notice shall abate revocation, pending determination of the Board.

(G) The Sheriff may order immediate corrective action of the licensee upon finding the violation poses an extreme hazard to public safety.
('90 Code § 6.20.210) (Ord. 63, passed 1972; Ord. 157, passed 1977)

§ 15.111 RENEWAL OF LICENSE.

(A) Inspection of all towing vehicles shall be made as provided in § 15.108(B) at the time of each annual renewal of the license to tow.

(B) An annual license renewal fee in an amount set by Board resolution shall be charged for each calendar year and shall be due on December first of the previous calendar year.

(C) Renewal of an applicant's license is subject to compliance with this subchapter.
('90 Code § 6.20.220) (Ord. 63, passed 1972; Ord. 157, passed 1977; Ord. 246, passed 1980)

§ 15.112 NOTIFICATION OF CHANGE OF CIRCUMSTANCES.

If the status of any licensee under this subchapter changes in regard to the number of towing vehicles owned or operated, new drivers, discontinued drivers, the personal qualifications of employees, the sale or discontinuance of the business being conducted, or anything substantially changing the information contained in the initial application, the licensee must immediately file with the Sheriff a statement setting forth the changes. An inspection fee in an amount set by Board resolution shall be paid for inspection of towing vehicles acquired after the license inspection.
('90 Code § 6.20.230) (Ord. 63, passed 1972)

§ 15.113 APPEALS AND HEARINGS; REVIEW.

(A) Persons receiving notice from the Sheriff may request a hearing by filing a written request for hearing with the Sheriff within 30 days of receipt of the notice. The request shall set forth reasons for the hearing and the issues to be heard.

(B) The Sheriff shall, upon receipt of request for hearing, promptly notify the Board and the Board shall set a time and place for the hearing, not more than 60 days from the date of receipt of request for a hearing.

(C) The Board shall give notice to the person requesting a hearing as to the time and place for the hearing not less than 30 days prior to the hearing.

(D) The person requesting the hearing and the Sheriff may make argument, cross examine witnesses, submit testimony, rebuttal evidence and written documentation and submit briefs on matters pertinent to the issue to be determined.

(E) All hearings shall be recorded in a manner which will allow for a written transcription to be made and all materials submitted by the person requesting the hearing and by the Sheriff shall be retained by the Board for a period of at least two years.

(F) The Board shall issue its order determining the question within 30 days from the date of the hearing, or any continuance not to exceed 30 days, and shall mail a copy of the order to the person requesting the hearing.

(G) Review of the action of the Board shall be taken solely and exclusively by writ of review in the manner set forth in ORS §§ 34.010 to 34.100, provided, however, that any aggrieved person may demand relief by writ of review.
('90 Code § 6.20.240) (Ord. 63, passed 1972)

§ 15.114 IDENTIFICATION, RATE SCHEDULE AND PERMIT REQUIRED.

(A) The name, address, number of the particular vehicle and phone number of the licensee shall be prominently displayed on each towing vehicle owned or operated by the licensee.

(B) Tow and storage rates charged for services by a licensee shall be filed with the Sheriff at least ten days prior to their effective date and shall be prominently posted at the licensee's place of business. Each towing vehicle operator shall have in possession a rate card setting forth the licensee's rate schedule currently on file with the Sheriff which shall include the licensee's business name, location, telephone number, location of storage facilities for towed vehicles and business hours. A copy of the rate card shall be furnished to the person requiring the tow, if present.

(C) The towing operator shall, upon request, identify himself by giving his full name to any patron of the licensee.

(D) The tow for hire permit indicating vehicle operation under a the county license shall be prominently displayed in the lower left corner of the windshield of each towing vehicle.

(E) The tow truck permit registration will be carried in each towing vehicle and will be presented for inspection upon request of a peace officer.
('90 Code § 6.20.250) (Ord. 63, passed 1972; Ord. 137, passed 1976) Penalty, see § 15.999

§ 15.115 REMOVAL OF DEBRIS.

The driver of a towing vehicle engaged to remove a disabled vehicle from the scene of an accident shall remove glass and other debris from the roadway unless otherwise instructed by police authority.
('90 Code § 6.20.250) (Ord. 63, passed 1972; Ord. 137, passed 1976) Penalty, see § 15.999

§ 15.116 STORAGE OF TOWED VEHICLES.

Vehicles shall be stored in conformity with the zoning ordinance of the county and nothing in this subchapter shall be construed as a modification of those requirements.
('90 Code § 6.20.260) (Ord. 63, passed 1972) Penalty, see § 15.999

§ 15.117 HOURS FOR RELEASE OF IMPOUNDED VEHICLES.

Towing operators storing impounded vehicles in the county must provide for release of impounded vehicles, without additional charge, at any time within the 24 hours following the tow. Thereafter, the release may be effected during normal working hours, between 8:00 a.m. and 5:00 p.m., Monday through Friday.
('90 Code § 6.20.270) (Ord. 63, passed 1972)

§ 15.118 PROHIBITED ACTS.

No licensee or employee of a licensee shall:

(A) Make a false statement of a material fact, or omit disclosure of a material fact, in the application for license;

(B) Monitor the police radio for profit or gain;

(C) Solicit information as to accident locations by payment of any form of gratuity;

(D) Solicit those at the scene of an accident without first determining whether towing assistance has already been requested. A prior request shall prohibit solicitation, provided, however, any licensee may render assistance without charge at the scene of an accident to clear the public street or highway;

(E) Either expressly or impliedly by any statement or action make any false representation that he represents or is approved by any business firm or organization;

(F) Require performance of repair work on a vehicle involved in an accident or breakdown in connection with providing towing service for that vehicle;

(G) Increase towing or storage rates from those filed with the Sheriff except as provided in § 15.114;

(H) Make any repairs or alterations to a vehicle without first being authorized by the registered or legal owner, an authorized insurance company or authorized agent of those persons, provided, however, that licensees and employees may make emergency alterations necessary to permit the towing of the vehicle;

(I) Store vehicles in violation of the zoning ordinance;

(J) Charge a fee when a vehicle owner or the owner's agent or insurance representative gives written or verbal authorization to a person other than the licensee to remove the owner's vehicle from the licensee's premises;

(K) Tow a vehicle which is occupied by persons;

(L) Charge for services not performed or make duplicate charges for the same services;

(M) Charge more than one daily storage fee for the initial 24-hour storage period or charge other than on a calendar day basis after that; or

(N) Refuse the owner or the owner's authorized agent reasonable access to the licensee's storage premises for vehicle inspection.
('90 Code § 6.20.280) (Ord. 63, passed 1972) Penalty, see § 15.999

§ 15.119 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which relate to the activities regulated by this subchapter.
('90 Code § 6.20.290) (Ord. 63, passed 1972)

§ 15.120 ADMINISTRATION.

(A) The Sheriff shall be responsible for the administration and enforcement of this subchapter.

(B) The Sheriff shall have the authority to do the following:

(1) Administer oaths;

(2) Audit records;

(3) Certify to all official acts;

(4) Subpoena and require attendance of witnesses at meetings or hearings to determine compliance with this subchapter;

(5) Require the production of relevant documents;

(6) Swear witnesses;

(7) Take testimony of any person by deposition; and

(8) Perform all other acts necessary to administer and enforce the provisions of this subchapter.

(C) The Board may adopt rules by resolution necessary for the administration and enforcement of this subchapter.
('90 Code §§ 6.20.130 and 6.20.140) (Ord. 63, passed 1972)

WRECKER CERTIFICATES

§ 15.200 PURPOSE.

The purposes of this subchapter are to establish the principal criteria which shall be considered by the Board and Sheriff in granting approval of wrecker certificates within unincorporated the county and to establish an application and approval process.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.201 APPLICATIONS.

(A) Any applicant for a wrecker certificate who is required by the Department of Motor Vehicles (DMV) to obtain approval from a county governing body in which it does business shall present an application prescribed by DMV to the Sheriff for the purpose of obtaining such an approval.

(B) The Sheriff may require information in addition to that provided on the application in order to conduct an investigation relevant to the county's approval.

(C) An application shall be accepted only if it is properly completed and accompanied by a processing fee in an amount set by Board resolution.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.202 INVESTIGATION.

(A) The Sheriff shall coordinate and conduct an investigation of each application using the procedures set forth in division (B) of this section.

(B) The Sheriff shall:

(1) Check for prior arrest records of owners on employees or violations of state statutes regulating wreckers;

(2) Check for prior community relations problems;

(3) Check to see if the requirements of ORS 822.110 are met;

(4) Check to see if the business location violates any prohibitions under ORS 822.135;

(5) Check to see that the location meets zoning regulations of the county; and

(6) Check to see that there are no delinquent personal or real property taxes due and owing.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.203 RECOMMENDATIONS TO THE BOARD.

Upon completion of the investigation procedures by the Sheriff's office, the Sheriff shall forward to the Board a recommendation of approval or denial. The clerk of the Board shall place the matter on the Board's agenda, in order that the Board may make a recommendation of approval or denial to DMV.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.204 DENIAL OF CERTIFICATE.

The Sheriff may make a recommendation of denial regarding any application if:

(A) The applicant's record reflects a pattern of violations of state statutes regulating wreckers;

(B) The record of the applicant shows violation(s) of criminal law(s) or ordinance(s) connected in time, place or manner with an auto wrecker establishment or which demonstrates a disregard for the law;

(C) The requirements of ORS 822.110 have not been met;

(D) The business location violates prohibitions under ORS 822.135;

(E) The location does not meet zoning regulations of the county;

(F) Delinquent personal or real property taxes are due and owing; or

(G) If there is any other specific reason consistent with the purposes of this subchapter which may, in the opinion of the Sheriff, warrant an adverse report to the Board based upon public health, safety, welfare, convenience or necessity.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.205 HEARINGS; NOTIFICATION.

When the Sheriff makes a recommendation for denial of any application, the clerk of the Board shall notify, by certified mail, the applicant and the Sheriff of the hearing date, place and time at least one week before such hearing takes place.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.206 HEARINGS.

When the Board has scheduled a hearing on any auto wrecker certificate approval, such applicant shall be given a reasonable opportunity to be heard and address concerns raised by the Sheriff, the Board, and persons or groups appearing in opposition to such an application. The Board's recommendation of approval or denial of such application, based upon a determination of what course of action best serves the interest of the citizens of the county, shall be final.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

§ 15.207 RECONSIDERATION OF APPLICATIONS.

After having made a recommendation of denial on any auto wrecker certificate application, the Sheriff and the Board shall not consider any new

application for the same location by the same or substantially the same applicant for a period of at least six months or while such applicant has pending an appeal in court or in a state administrative agency related to such a certificate approval. Notwithstanding, the Sheriff may reconsider or resubmit such an application to the Board in less than six months if it is reasonably believed that a recommendation of denial has substantially changed, and no court or administrative appeal of such license is pending.
('90 Code § 5.10.010) (Ord. 723, passed 1992)

NUISANCES GENERALLY

§ 15.225 TITLE AND AREA OF APPLICATION.

This subchapter shall be known and cited as the county Nuisance Control Law, and shall apply to the unincorporated areas of the county.
('90 Code § 7.20.005) (Ord. 125, passed 1976)

§ 15.226 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ABANDONED VEHICLE. Any vehicle which reasonably appears to be inoperative, wrecked, discarded, abandoned or totally or partially dismantled.

EXPLOSIVE. A chemical compound, mixture or device that is used or intended to be used for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined by state law, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

GARBAGE. All animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

HEALTH OFFICER. That person in the county Department of Health, or an agent with the authority of the local Health Officer under state law.

HEARINGS OFFICER. That person appointed by the Board to preside at hearings held under § 15.231.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curblines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

LIQUID WASTE. Waste oil, septic tank pumping, liquid industrial wastes or other similar material.

NUISANCE. Any condition or practice causing or capable of causing an unreasonable threat to the public health, safety and welfare in the circumstances, but does not include noise, provided, however, that anything defined as a nuisance in § 15.229 shall be a nuisance.

OWNER. Any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

RADIOACTIVE SUBSTANCE. A substance which emits radiation in the form of gamma rays, X-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons and other nuclear particles, but radiation does not include sound waves, radio waves, visible light, infrared light or ultraviolet light.

RODENT. A mouse or rat.

RUBBISH. Glass, metal, paper, wood, plastics or other nonputrescible solid waste.

SEWAGE SLUDGE. Residual waste of sewage treatment plants, consisting of digested organic waste and indigestible solids.

SIDEWALK. That portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

SOLID WASTE. All putrescible and nonputrescible wastes, whether in solid or liquid form, except wastes produced by the human body, liquid-carried industrial waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service, and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semisolid waste, dead animals and other discarded solid materials.

VECTOR. Any insect organism, including but not limited to flies, fleas, ticks, and mosquitoes, capable of bearing or carrying a disease transmittable to human beings.

VEHICLE. Any device which is designed or used for transporting people, goods or property upon a public street or roadway, including but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks.
('90 Code § 7.20.010) (Ord. 125, passed 1976; Ord. 653, passed 1990)

§ 15.227 POLICY.

The Board has determined it is necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety and welfare of the people of the county, and this subchapter shall be liberally construed to effectuate that purpose.
('90 Code § 7.20.020) (Ord. 125, passed 1976)

§ 15.228 NOTICES.

Except as provided in § 15.231(B), all notices shall be in writing and, if mailed, then post-paid certified or registered mail, return receipt requested, to the addressee's last known address. A mailed notice shall be presumed to have been received on the second mail delivery day after mailing.
('90 Code § 7.20.050) (Ord. 125, passed 1976)

§ 15.229 NUISANCES PROHIBITED.

(A) It shall be unlawful for any person to maintain or allow to exist the following things, practices or conditions on any property or within public road rights-of-way adjacent to that property, which shall be nuisances:

(1) A pond or pool of stagnant water which emits an obnoxious odor or is a source of vector breeding or otherwise presents a threat to the public health, safety and welfare.

(2) An animal carcass not buried or destroyed within 24 hours after death.

(3) Accumulation, collection or storage of solid waste without prior approval of the health officer and the Sheriff, unless the person is licensed by lawful authority to operate a business specifically for those purposes.

(4) A well, septic system or cesspool that has not been safely or securely sealed or properly maintained, which may cause or has caused an injury to any person or contamination of a potable water supply.

(5) An abandoned, discarded or unattended icebox, refrigerator or other container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside.

(6) Any property, whether vacant or improved buildings, residence structure or accumulation of any materials which is infested by vectors or rodents.

(7) Uncontrolled or uncultivated growth of weeds, brush, or grasses which offer vector or rodent harborage, contribute noxious pollens to the atmosphere, constitute a fire hazard or produce toxins that are harmful to humans, pets, livestock or wildlife.

(8) Any explosive or radioactive substance unless the possession is authorized by law.

(9) Any vacant building, left unsecured and unattended and accessible to the public.

(10) An open pit, well, quarry, cistern, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more without reasonable safeguards or barriers to prevent them from being accessible to children.

(11) Dead or decaying trees and tree limbs that present a safety hazard to the public or to the abutting property owners.

(12) A fence, barrier, partition or obstruction located in a residential zone, except RL-C or F-2, and which is partially or totally constructed with barbed wire or is electrically charged in such a manner as to transmit an electrical shock or charge upon contact.

(13) Any abandoned vehicle upon private or public property unless the owner of the property is lawfully authorized to operate a business specifically for that purpose.

(14) Signs, hedges, shrubbery, natural growth or other obstructions at or near intersections which hinder the view necessary for the safe operation of vehicles.

(15) Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil or solid waste.

(16) Any excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks or other public property.

(B) The enumeration of nuisances in division (A) of this section shall not limit the power of the health officer or Sheriff to investigate or declare any other condition a nuisance which is within the scope of § 15.226.
('90 Code § 7.20.060) (Ord. 125, passed 1976; Ord. 653, passed 1990) Penalty, see § 15.999

§ 15.230 INSPECTION AND ABATEMENT.

(A) The health officer or Sheriff may enter any property or building at any reasonable time for the purpose of inspection or enforcing this subchapter. Except when an emergency exists, the health officer or Sheriff shall obtain the consent of the owner or a court warrant before entering private property or a private building.

(B) As used in this section, an emergency exists when the health officer or Sheriff has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health, safety and welfare.

(C) An investigation may be conducted whenever the health officer or Sheriff receives a complaint that a nuisance exists.

(D) Whenever it appears there is reasonable cause to believe that a nuisance exists, or upon receipt of declaration from the health officer, the Sheriff shall provide written notice to the owner of the existence of the nuisance and shall demand abatement within 30 days from the date of the written notice, or such lesser time as may be set by the Sheriff to protect the public health, safety and welfare. The notice shall describe with reasonable certainty the property, the nature of the nuisance and the action necessary to abate the nuisance, and shall inform the owner of the owner's rights under §§ 15.231 and 15.232, and the procedure by which the owner may contact the Sheriff for more information.

(E) In an emergency, the health officer or Sheriff may order immediate abatement of a nuisance. The Sheriff shall give notice of the requirement for immediate abatement to the owner.

(F) In an emergency, and in lieu of action under division (E) of this section, the health officer or Sheriff may proceed with immediate abatement of the nuisance. The health officer or Sheriff shall then immediately send written notice of abatement to the owner of the property.
('90 Code § 7.20.070) (Ord. 125, passed 1976)

§ 15.231 APPEALS AND HEARINGS.

(A) Any person receiving a notice under § 15.230(D), (E) or (F) may request a hearing by writing the Sheriff within seven days of the date of the notice.

(B) The Sheriff shall, upon receipt of request for a hearing, promptly notify the hearings officer who shall set a time and place for the hearing at the earliest possible time and shall promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.

(C) The person requesting the hearing and the Sheriff may make argument, submit testimony, cross examine witnesses and submit rebuttal evidence on the pertinent issues. Any party may be represented by counsel.

(D) All hearings shall be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing shall be retained by the hearings officer for a period of two years.

(E) Failure of the person requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

(F) After the hearing, the hearings officer shall issue and mail a copy of the order determining the question within 15 days from the date of the hearing, or any continuance thereof not to exceed 15 days, to the person requesting hearing and the Sheriff.

(G) If the hearings officer finds the nuisance to exist, the order shall set a date for abatement to be accomplished by the owner.

(H) If the hearings officer determines that anything removed under § 15.230(F) no longer constitutes a nuisance or can be released upon such condition as the hearings officer may prescribe that will eliminate the nuisance, the person requesting the hearing may claim it upon paying the expense incurred in its removal and storage.

(I) If the hearings officer determines there was a wrongful abatement under § 15.230(F), the hearings officer may order the Sheriff to make reasonable restitution.
('90 Code § 7.20.080) (Ord. 125, passed 1976)

§ 15.232 REVIEW.

Review of any action of the hearings officer taken under this subchapter and the rules adopted under them shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100.
('90 Code § 7.20.090) (Ord. 125, passed 1976)

§ 15.233 ABATEMENT BY OWNER REQUIRED.

Failure of the owner to abate the nuisance within 30 days as provided by § 15.229(D) or within the time set by the hearings officer under § 15.231 shall be a violation under this subchapter, and a county offense under ORS 203.810.
('90 Code § 7.20.100) (Ord. 125, passed 1976) Penalty, see § 15.999

§ 15.234 ABATEMENT BY COUNTY; COSTS; WAIVER; LIEN.

(A) If an owner fails to abate a nuisance as required under this subchapter, the Sheriff may cause abatement of the nuisance. Accurate record of the abatement costs shall be kept and shall include a surcharge of 25% of the cost of the abatement for administrative overhead. A billing for the amount of

the costs shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be due to the Sheriff within 30 days from the date of the billing.

(B) The cost of abating a nuisance may be waived for low income, elderly or disabled persons, if upon timely application it appears to the Sheriff that the following conditions are met:

(1) The owner is disabled or over 65 years of age, and, if single, had an income during the preceding calendar year from all sources of less than $3,600, or, if the head of a family, had an income during the preceding calendar year from all sources of less than $5,400; and

(2) The owner is living on the property from which the nuisance is to be abated.

(C) Applications for waiver of nuisance abatement costs shall be filed with the Sheriff on forms supplied by the county within ten days from the date of notice of the amount of cost of abatement. All information required to be given on the forms shall be supplied by and verified by the applicant. An application for waiver of nuisance assessment costs must be submitted for each cost of abatement notice sent to the applicant.

(D) The Board shall file a lien against the property if payment is not made as provided in division (A) of this section or waived under division (B) of this section.

(E) The lien provided for in division (D) of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate accruing from the date billing is sent to the owner of property.

(F) The lien provided for in division (D) of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.
('90 Code § 7.20.110) (Ord. 125, passed 1976)

§ 15.235 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which are now or may in the future be in effect, which relate to the activities regulated by this subchapter.
('90 Code § 7.20.120) (Ord. 125, passed 1976)

§ 15.236 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff shall be responsible for the administration and enforcement of this subchapter.

(B) The Sheriff shall have authority to administer oaths, certify all official acts, issue citations, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the hearings officer and take testimony of any person by deposition.

(C) The Sheriff may adopt rules necessary for the administration and enforcement of this subchapter.
('90 Code §§ 7.20.030, 7.20.040) (Ord. 125, passed 1976)

OPEN PITS

§ 15.250 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ADEQUATE SAFEGUARD. The degree of protection which is afforded by such systems as chainlink fence not less than eight feet in height, or six feet surmounted by three strands of barbed wire. The safeguard may include plantings, walls or other means and may include access gates having the same protective characteristics if securely closed and locked during nonoperating hours. Fences shall comply with the applicable codes and ordinances of the county.

OPEN PIT. That part of an excavation created by the removal of material having a depth exceeding ten feet below adjacent natural ground, with a side slope steeper than two to one, whether containing water or not.

OPEN PIT NUISANCE. The maintenance, whether operational or not, of an open pit without adequate safeguard.

OWNER. A person having legal title to real property in the county outside of incorporated cities.

PERSON IN CHARGE OF PROPERTY. An agent, occupant, lessee, contract purchaser or person other than owner having possession or control of real property in the county outside of incorporated cities.
('90 Code § 7.25.010) (Ord. 61, passed 1972)

§ 15.251 POLICY AND CONSTRUCTION.

To protect the health, safety, and welfare of the people of the county, the Board has determined the necessity of providing a program for adequate safeguarding of open pit nuisances which constitute a hazard or menace to the public health and safety. This subchapter shall be liberally construed for the accomplishment of this purpose.
('90 Code § 7.25.020) (Ord. 61, passed 1972)

§ 15.252 OPEN PIT NUISANCES PROHIBITED.

It shall be unlawful for any owner or person in charge of property in the county outside of incorporated cities to maintain an open pit without adequate safeguard. The maintenance of that property is declared to be an open pit nuisance.
('90 Code § 7.25.030) (Ord. 61, passed 1972) Penalty, see § 15.999

§ 15.253 INSPECTIONS.

The Sheriff shall conduct such inspections as the Sheriff considers necessary to insure compliance with all provisions of this subchapter, and shall have right of entry at any reasonable hour to investigate complaints and to insure abatement of open pit nuisances as provided in this subchapter.
('90 Code § 7.25.060) (Ord. 61, passed 1972)

§ 15.254 NOTICE.

(A) The Sheriff shall, if there is cause to find that an alleged open pit nuisance exists, provide written notice to the owner and person in charge of the property of the existence of the alleged nuisance, and shall demand that the alleged nuisance be abated within 15 days from the date of the written notice. The notice shall describe with reasonable certainty the property, the nature of the alleged nuisance and the action necessary to abate the alleged nuisance.

(B) The Chair may order immediate abatement if the Chair finds that the alleged nuisance poses extreme hazard to the public health or safety.
('90 Code § 7.25.070) (Ord. 61, passed 1972)

§ 15.255 HEARING.

(A) The person in charge of the property, or the owner receiving a notice of abatement of an alleged open pit nuisance may request a hearing before the Board by filing a written request with the Board within five days from the date of notice of abatement. Abatement action under § 15.254 shall be suspended upon the filing of the written request.

(B) The Board shall, upon receipt of written request for hearing, set a time and place for hearing upon its order, which shall not be more than ten days from the date of filing of request for a hearing, and shall so notify in writing the person requesting hearing. Persons considered by the Board to be interested shall also be notified. The owner or person in charge of the property may present evidence before the Board pertinent to the alleged nuisance and its abatement. The Sheriff shall also appear and present evidence pertinent to the alleged nuisance and its abatement. Failure of the person requesting hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

(C) The Board shall, after the hearing, enter an order containing its findings as to whether the alleged open pit nuisance does in fact exist, and may confirm or extend the time in which the nuisance is to be abated.
('90 Code § 7.25.080) (Ord. 61, passed 1972)

§ 15.256 ABATEMENT BY COUNTY; COSTS; LIEN.

(A) If the nuisance has not been abated by the owner or person in charge of the property within the time allowed by this subchapter, the Board may, at the request of the Sheriff, cause the nuisance to be abated. Accurate records shall be kept of the total expense incurred by the county to abate the nuisance. A billing for the amount of costs shall be forwarded by registered mail to the owner or person in charge of the property for full payment. Payment shall be made to the county, in not less than 30 days from the date of registered mail.

(B) If the owner or person in charge objects to the cost of abatement, the owner or person in charge may file a written protest with the Board within a period not to exceed ten days from the date of notice of the amount of cost of abatement. The Board shall set a time and place for hearing the objection, notify the objector of the time and place and make its determination based upon evidence presented at the hearing. The Board's order of determination shall be final and binding.

(C) The Board shall file a lien against the property when the practice constituting the nuisance was found to exist, when:

(1) Payment has not been made as provided in division (A) of this section; or

(2) When payment has not been made within 15 days of the order of the Board as provided in division (B) of this section.
('90 Code § 7.25.090) (Ord. 61, passed 1972)

§ 15.257 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws, rules and other county ordinances which are now, or may in the future be, in effect which relate to the public health or safety.
('90 Code § 7.25.100) (Ord. 61, passed 1972)

§ 15.258 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff shall be responsible for the administration and enforcement of this subchapter.

(B) The Board may adopt rules by resolution relating to the administration of this subchapter.
('90 Code §§ 7.25.040, 7.25.050) (Ord. 61, passed 1972)

SOUND CONTROL

§ 15.265 TITLE AND APPLICATION.

This subchapter shall be known and cited as the county Sound Control Law and shall apply within the unincorporated areas of the county.
('90 Code § 7.30.005) (Ord. 316, passed 1982)

§ 15.266 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

IDLING SPEED. That speed at which an engine will run when no pressure is applied to the accelerator or accelerator linkage.

NOISE SENSITIVE UNIT. Any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to individual residential units, individual apartments, trailers, hospitals, and nursing homes.

PLAINLY AUDIBLE SOUND. Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

SOUND PRODUCING DEVICE.

(1) Loudspeakers, public address systems;

(2) Radios, tape recorders or tape players, phonographs, television sets, stereo systems, including those installed in a vehicle;

(3) Musical instruments, amplified or unamplified;

(4) Sirens, bells;

(5) Vehicle engines or exhausts, when the vehicle is not on a public right-of-way, particularly when the engine is operating above idling speed;

(6) Vehicle tires, when caused to squeal by excessive speed or acceleration;

(7) Domestic tools, including electric drills, chain saws, lawn mowers, electric saws, hammers, and similar tools, but only between 10:00 p.m. and 7:00 a.m. of the following day; and

(8) Heat pumps, air conditioning units, and refrigeration units, including those mounted on vehicles.

VEHICLE. Automobiles, motorcycles, motorbikes, trucks, buses, and snowmobiles.
('90 Code § 7.30.010) (Ord. 316, passed 1982)

§ 15.267 FINDINGS AND POLICY.

(A) The Board has found that excessive sound can and does constitute a hazard to the health, safety, and welfare and quality of life of residents of the county.

(B) The Board has further determined that while certain activities essential to the economic, social, political, educational and technical advancements of the citizens of the county necessarily require the production of sounds which may offend, disrupt, intrude or otherwise create hardship among the citizens, the Board is obliged to impose some limitations and regulation upon the production of excessive sound as will reduce the deleterious effects thereof.

(C) It is therefore the policy of this Board to prevent and regulate excessive sound wherever it is deemed to be harmful to the health, safety, welfare and quality of life of the citizens of the county. This subchapter shall be liberally construed to effectuate that purpose.
('90 Code § 7.30.020) (Ord. 316, passed 1982)

§ 15.268 SOUND MEASUREMENT.

(A) If measurements are made, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified in ANSI standard 1.4-1971. For purposes of this subchapter, a sound level meter shall contain at least an A-weighed scale, and both fast and slow meter response capability.

(B) If measurements are made, personnel making those measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

(C) Measurements may be made at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or within a noise sensitive unit which is not the source of the sound.

(D) All measurements made pursuant to this subchapter shall comply with the provisions of this section.
('90 Code § 7.30.040) (Ord. 316, passed 1982)

§ 15.269 PROHIBITIONS.

It shall be unlawful for any person to produce or permit to be produced, with a sound producing device, sound which:

(A) When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or, within a noise sensitive unit which is not the source of the sound, exceeds:

(1) Fifty dBA at any time between 10:00 p.m. and 7:00 a.m. the following day; or

(2) Sixty dBA at any time between 7:00 a.m. and 10:00 p.m. the same day; or

(B) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day:

(1) Within a noise sensitive unit which is not the source of the sound; or

(2) On a public right-of-way at a distance of 50 feet or more from the source of the sound.

(C) If a measurement of the sound is made, division (A) of this section shall supersede division (B) of this section and shall be used to determine if a violation exists.
('90 Code § 7.30.050) (Ord. 316, passed 1982) Penalty, see § 15.999

§ 15.270 EXCEPTIONS.

Notwithstanding § 15.269, the following exceptions from this subchapter are permitted:

(A) Sounds caused by organized athletic or other group activities, when those activities are conducted on property generally used for those purposes, including stadiums, parks, schools, churches, athletic fields, racetracks, airports and waterways, provided, however, that this exception shall not impair the Sheriff's power to declare the event or activities otherwise to violate other laws, ordinances or regulations.

(B) Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not the work is performed by a public or private agency, upon public or private property.

(C) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations.

(D) Sounds caused by bona fide use of emergency warning devices and alarm systems authorized by this chapter.

(E) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9:00 a.m. and 4:00 p.m., excluding weekends, unless the permit expressly authorizes otherwise.

(F) Sounds caused by industrial, agricultural or construction organizations or workers during their normal operations.
('90 Code § 7.30.060) (Ord. 316, passed 1982)

§ 15.271 VARIANCES.

(A) Any person who is planning the use of a sound producing device which may violate any provision of this subchapter may apply to the Sheriff for a variance from the provisions of this subchapter.

(B) The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and other supporting information which the Sheriff may reasonably require.

(C) The Sheriff shall consider:

(1) The nature and duration of the sound emitted;

(2) Whether the public health, safety or welfare is endangered;

(3) Whether compliance with the provision would produce no benefit to the public; and

(4) Whether previous permits have been issued, and the applicant's record of compliance.

(D) A variance may be granted for a specific time interval only.

(E) The Sheriff shall, within ten days, deny the application, approve it, or approve it subject to conditions.

(F) The Sheriff's decision may be appealed to the Board. Notice of appeal should be delivered to the clerk of the Board. The Board shall review the application de novo, and within 15 days, deny the application, approve it, or approve it subject to conditions.

(G) The Sheriff may, at any time before or during the operation of a variance granted by the Sheriff, revoke the variance for good cause. The Board may, at any time before or during the operation of any variance, revoke the variance for good cause.
('90 Code § 7.30.070) (Ord. 316, passed 1982)

§ 15.272 ADDITIONAL REMEDIES.

The provisions of this subchapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy. It is in addition to existing legislation and common law on such subject.
('90 Code § 7.30.080) (Ord. 316, passed 1982)

§ 15.273 IMPOUNDMENT.

In addition to the penalties prescribed in § 15.999, the court may order any sound producing device, found to have been used to violate this subchapter, seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the county general fund.
('90 Code § 7.30.090) (Ord. 316, passed 1982)

§ 15.274 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff shall administer, supervise and perform all acts necessary to enforce this subchapter.

(B) Persons appointed or assigned by the Sheriff, as he deems necessary to accomplish effective enforcement of this subchapter, may be peace officers or not, but if unsworn persons are selected and empowered to issue citations for violation of this subchapter, the Sheriff shall exercise powers under ORS 204.635.

(C) Upon citation of a person for a violation of this subchapter, the person issuing the citation may seize as evidence the sound producing device which was the source of the sound. The sound producing device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound producing device shall be returned to the cited person or deemed contraband, subject to § 15.999. It is the intent of this subchapter to avoid such seizures except where the person being cited has received two previous citations within the previous six months for the use of the same or similar sound producing device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

(D) Citation forms authorized pursuant to ORS §§ 153.110 through 153.310 may be used for any violations under § 15.269.

(E) In addition to any other enforcement procedures, the Board may, upon its own motion, or upon receipt of a petition requesting a hearing by the Board, signed by no fewer than ten persons residing in the vicinity of a property upon which is located an alleged violation of this subchapter, issue its order to the person producing or permitting to be produced the sound which allegedly violates this subchapter, to appear before the Board and show cause why the Board should not declare the sound a violation of this

subchapter and order the violation abated. Noncompliance with the order may result in the Board referring the order to the County Counsel for injunctive enforcement, or alternatively to the District Attorney for appropriate action.
('90 Code § 7.30.030) (Ord. 316, passed 1982)

CHRONIC NUISANCE PROPERTY

§ 15.285 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CHRONIC NUISANCE PROPERTY.

(1) Property on which three or more nuisance activities exist or have occurred during any 60 day period;

(2) Property on which or within 200 feet of which any person associated with the property has engaged in three or more nuisance activities during any 60 day period;

(3) Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 or ORS 475.940 through 475.999 has occurred within the previous 60 days, and the Sheriff has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property;

(4) Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that prostitution, promoting prostitution, or compelling prostitution as defined in ORS 167.002 through 167.027 has occurred within the previous 60 days, and the Sheriff has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property; or

(5) Property on which continuous or repeated ***NUISANCE ACTIVITIES*** as defined in divisions (7), (8), (13) or (14) of that definition exist or have occurred.

CONTROL. The ability to regulate, restrain, dominate, counteract or govern property or conduct that occurs on a property.

NUISANCE ACTIVITIES. Any of the following activities, behaviors or conduct:

(1) Harassment as defined in ORS 166.065;

(2) Intimidation as defined in ORS 166.155 through 166.165;

(3) Disorderly conduct as defined in ORS 166.025;

(4) Assault or menacing as defined in ORS 163.160 through 163.190;

(5) Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS.163.415 through 163.445;

(6) Public indecency as defined in ORS 163.465;

(7) Prostitution or related offenses as defined in ORS 167.007 through 167.017;

(8) Alcoholic liquor violations as defined in ORS 471.105 through 471.482;

(9) Offensive littering as defined in ORS 164.805;

(10) Criminal trespass as defined in ORS 164.243 through 164.265;

(11) Theft as defined ORS 164.015 through 164.140;

(12) Arson or related offenses as defined in ORS 164.315 through 164.335;

(13) Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203 through 167.212, ORS 167.262, ORS 475.005 through 475.285, or ORS 475.940 through 475.999;

(14) Illegal gambling offenses as defined in ORS 167.117, or ORS 167.122 through 167.137;

(15) Criminal mischief as defined in ORS 164.345 through 164.365;

(16) Any attempt to commit, as defined in ORS 161.405, or conspiracy to commit, as defined in ORS 161.450, any of the above activities, behaviors or conduct;

(17) Sound control violations defined this chapter; or

(18) Curfew violations as defined in this chapter.

PERSON ASSOCIATED WITH. Any person who, on the occasion of a nuisance activity, has entered, patronized, visited or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner thereof.

PERSON IN CHARGE. Any person in actual or constructive possession of a property, including but not limited to an owner or occupant or property under his or her dominion, ownership or control.

PROPERTY. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of the property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.
(Ord. 894, passed 1997)

§ 15.286 VIOLATIONS.

(A) Any property determined by the Sheriff to be chronic nuisance property is in violation of this subchapter and subject to its remedies.

(B) Any person in charge of property determined by the Sheriff to be a chronic nuisance property is in violation of this subchapter and subject to its remedies.
(Ord. 894, passed 1997) Penalty, see § 15.999

§ 15.287 ABATEMENT PROCEDURE.

(A) *Notice.*

(1) When the Sheriff receives two or more police reports documenting the occurrence of nuisance activities on or within 200 feet of a property, the Sheriff shall independently review such reports to determine whether they describe the activities, behavior or conduct enumerated under the definition of nuisance activities in § 15.285. Upon such a finding, the Sheriff may notify the person in charge and occupant in writing that the property is in danger of becoming chronic nuisance property. The notice shall contain the following information:

(a) The street address or a legal description sufficient for identification of the property;

(b) A statement that the Sheriff has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that exist or that have occurred;

(c) An offer that the person in charge propose a course of action to abate the nuisance activities; and

(d) A demand that the person in charge respond to the Sheriff within ten days.

(2) When the Sheriff receives a police report documenting the occurrence of additional nuisance activity on or within 200 feet of a property after notice as provided in division (A)(1); or in the case of chronic nuisance property as defined in § 15.285, divisions (3) through (5) of that definition, for which notice under division (A)(1) of this section is not required; the Sheriff shall notify the person in charge and occupant of property in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:

(a) The street address or a legal description sufficient for identification of the property;

(b) A statement that the Sheriff has determined the property to be a chronic nuisance property, with a concise description of the nuisance activities leading to the determination; and

(c) A demand that the person in charge respond to the Sheriff within ten days and propose a course of action to abate the nuisance activities.

(3) Service of the notice described in divisions (A)(1) and (A)(2) shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property which may be or which has been determined to be a chronic nuisance property or at such other place which is likely to give nuisance property or at such other place which is likely to give the person in charge notice of the Sheriff's information or determination.

(4) A copy of the notice described in divisions (A)(1) and (A)(2) shall be served on the owner at the address shown on the county tax rolls and/or on the occupant at the address of the property, if these persons are different than the person in charge, and service shall be made either personally or by first class mail, postage prepaid.

(5) A copy of the notice described in divisions (A)(1) and (A)(2) shall also be posted at the property if ten days has elapsed from the service or mailing of the notice to the person in charge, and the person in charge has not contacted the Sheriff.

(6) The failure of any person to receive notice as provided by this division (A) shall not invalidate or otherwise affect the proceedings under this subchapter.

(B) *Response or failure to respond.*

(1) If the person in charge fails to respond as required by division (A)(2)(c), the Sheriff may refer the matter to County Counsel.

(2) If the person in charge responds as required by division (A)(2)(c), and agrees with the Sheriff on a course of action to abate the nuisance activities, the Sheriff may postpone referring the matter to County Counsel. If an agreed course of action does not result in the abatement of the nuisance activities, or if no agreement concerning abatement is reached within 60 days of the initial response, the Sheriff may refer the matter to County Counsel.

(3) When a person in charge makes a response to the Sheriff as required divisions (A)(1)(d) and (A)(2)(c), any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have occurred or are occurring. This section does not require the exclusion of evidence which is otherwise admissible or is offered for any other purpose.
(Ord. 894, passed 1997)

§ 15.288 COMMENCEMENT OF ACTIONS; REMEDIES; BURDEN OF PROOF.

(A) County Counsel may commence legal proceedings in circuit court to abate chronic nuisance property and to seek closure, the imposition of civil penalties against any or all the persons in charge, and any other relief deemed appropriate.

(B) If the court determines property to be chronic nuisance property, the court shall order that the property be closed and secured against all access, use and occupancy for a period of not less than six months, nor more than one year. The order shall be entered as part of the final judgment. The court shall retain jurisdiction during any period of closure.

(C) (1) If the court determines a property to be chronic nuisance property, the court may impose either:

(a) A civil penalty of up to $100 per day for each day following the notice furnished pursuant to § 15.287(A)(2) when nuisance activities occurred on or within 200 feet of the property; or

(b) The cost to the county to abate the nuisance activities at the property, whichever is greater.

(2) The amount of the civil penalty shall be assessed against the person in charge and/or the property and may be included in the county's money judgment.

(D) If satisfied of the good faith of the person in charge, the court shall not award civil penalties if the court finds that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property.

(E) In establishing the amount of any civil penalty, the court may consider any of the following factors and shall cite those found applicable:

(1) The motions taken by the person in charge to mitigate or correct the nuisance activities at the property;

(2) The financial condition of the person in charge;

(3) Repeated or continuous nature of the problem;

(4) The magnitude or gravity of the problem;

(5) The cooperativeness of the person in charge with the county;

(6) The cost to the county of investigating and correcting or attempting to correct the nuisance activities; and

(7) Any other factor deemed relevant by the court.

(F) The county shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(G) Evidence of the general reputation of a property or of the general reputation of persons residing in or frequenting the property shall be admissible.
(Ord. 894, passed 1997)

§ 15.289 SUMMARY CLOSURE.

Any summary closure proceeding shall be based on evidence showing that nuisance activities exist or have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of Oregon Rules of Civil Procedure 79 for obtaining temporary restraining orders. In the event of summary closure, the county is not required to comply with the notice procedures set forth in § 15.287(A).
(Ord. 894, passed 1997)

§ 15.290 ENFORCEMENT.

(A) *Costs of securing property.*

(1) The court may authorize the county to secure the property against all access, use or occupancy in the event the person in charge fails to do so within the time specified by the court. In the

event that the county is authorized to secure the property, the county shall recover all costs reasonably incurred in doing so.

(2) The county shall prepare a statement of costs and shall thereafter submit it to the court for review, as provided in Oregon Rule of Civil Procedure 68.

(B) *Relocation costs.*

(1) The person in charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28) if, without actual notice, the tenant moved into the property after either:

(a) A person in charge received notice of the Sheriff's determination pursuant to § 15.287(A)(2); or

(2) A person in charge received notice of an action brought pursuant to § 15.289.

(C) *Lien against property, penalties, costs, interest.*

(1) A lien shall be created against the property for the amount of the county's money judgment.

(2) In addition, any person who is assessed penalties under § 15.288(C) or costs under division (A) of this section shall be personally liable for payment thereof to the county.

(3) Judgments imposed pursuant to this subchapter shall bear interest at the statutory rate.

(D) *Attorney fees.* The court may award attorney fees to the prevailing party.
(Ord. 894, passed 1997)

SECONDHAND DEALERS

§ 15.300 TITLE AND SCOPE.

This subchapter shall be known and cited as the county Occasional Secondhand Dealers and Secondhand Dealers Law.
('90 Code § 6.81.005) (Ord. 647, passed 1990)

§ 15.301 PURPOSE.

The Board's purpose in adopting this subchapter is to strictly regulate certain business activities that present an extraordinary risk of being used to conceal criminal behavior, including the theft of property. The Board finds that this risk is present despite the best efforts of legitimate businesses, because these businesses process large volumes of goods and materials that are frequently the subject of theft. This subchapter is intended to reduce this type of criminal activity by providing more timely police awareness of such property transactions, and by regulating the conduct of persons engaged in this business activity. The Board finds that these regulations are necessary and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.
('90 Code § 6.81.010) (Ord. 647, passed 1990)

§ 15.302 DEFINITIONS.

As used in this subchapter, unless the context requires otherwise:

ACCEPTABLE IDENTIFICATION. Either a valid driver's license, or two pieces of identification issued by a government agency, one of which shall include a physical description and a photograph of the person from whom the secondhand goods are being purchased.

CRIMINAL ARRESTS OR CONVICTIONS. Any offense defined by the statutes of the state or ordinances of the county, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the state or ordinances of the county, as specified herein, shall be considered to be equivalent to one of such offenses if the elements

of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable state statutes or the county ordinance provisions.

INVESTMENT PURPOSES. The purchase of personal property by businesses, and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

OCCASIONAL SECONDHAND DEALER. Any person:

(1) Who engages in, conducts, manages or carries on a business as defined by § 11.504;

(2) Who purchases or offers for sale no more than 50 items of regulated property in any one-year period; and

(3) Who purchases regulated property at or from premises located within the county, or on behalf of such a business regardless of where the purchase occurs.

PURCHASE. To take or transfer any interest in personal property in a voluntary transaction, including but not limited to the following: sales, consignments, leases, trade-ins, loans or any transfer involving a condition of selling the property back at a stipulated price in the future. ***PURCHASE*** does not include any loans made in compliance with state laws by pawnbrokers licensed by the state.

REGULATED PROPERTY.

(1) Any of the following property which is used or secondhand:

(a) Precious metals including but not limited to the following: any metal that is valued for its character, rarity, beauty or quality, including gold, silver, platinum or any other metals, whether as a separate item or in combination as a piece of jewelry;

(b) Precious gems including but not limited to the following: any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such precious or semiprecious gems or stones, whether as a separate item or in combination as a piece of jewelry;

(c) Watches and jewelry containing precious metals or precious gems including but not limited to the following: rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wrist watches, or stop watches;

(d) Sterling silver including but not limited to the following: flatware, candleholders, coffee and tea sets, or ornamental objects;

(e) Audio equipment including but not limited to the following: tape players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, car stereos, car speakers, radar detectors, or citizen band radios/transceivers;

(f) Video equipment including but not limited to the following: color televisions, black and white televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or video monitors;

(g) Photographic and optical equipment including but not limited to the following: cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment;

(h) Electrical office equipment including but not limited to the following: telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers, modems, monitors, or any computer equipment or accessories;

(i) Power yard and garden tools including but not limited to the following: garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, or blowers;

(j) Power equipment and tools including but not limited to the following: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, or logging equipment;

(k) Automotive hand tools including but not limited to the following: wrench sets, socket sets, screwdriver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, or timing lights;

(l) Telephones or telephone equipment limited to office telephones, portable home telephones, mobile telephones, cellular telephones, or answering machines;

(m) Musical instruments including but not limited to the following: pianos, organs, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, or electronic synthesizers;

(n) Firearms including but not limited to the following: rifles, shotguns, hand guns, revolvers, pellet guns, or BB guns;

(o) Sporting equipment limited to bicycles, golf clubs, skis, and ski boots; and

(p) Outboard motors, props, and outdrives.

(2) The term ***REGULATED PROPERTY*** does not include any of the following property:

(a) Vehicles required to be registered with the state Motor Vehicles Division;

(b) Boats required to be certified by the state Marine Board;

(c) Books;

(d) Glassware;

(e) Furniture;

(f) Refrigerators, stoves, washers, dryers and other similar major household appliances;

(g) Property which is purchased by a bona fide business for investment purposes, limited to the following:

1. Gold bullion bars (0.995 fine or better);

2. Silver bullion bars (0.995 fine or better);

3. All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency; or

4. Postage stamps, stamp collections and philatelic items.

SECONDHAND DEALER. Any person:

(1) Who engages in, conducts, manages or carries on a business as defined by § 11.504; and

(2) Who purchases or offers for sale 51 or more items of regulated property in any one-year period; and

(3) Who purchases regulated property at or from business premises located within the county, or on behalf of such a business regardless of where the purchase occurs.
('90 Code § 6.81.020) (Ord. 647, passed 1990)

§ 15.303 PERMIT REQUIRED.

(A) No person shall engage in, conduct or carry on an occasional secondhand dealer business or a secondhand dealer business in the county without a valid occasional secondhand dealer permit or a valid secondhand dealer permit issued by the Sheriff.

(B) Upon purchasing 50 items of regulated property during any one-year period, an occasional secondhand dealer shall apply for and obtain a secondhand dealer permit before purchasing any more items of regulated property.

(C) Any person who advertises or otherwise holds themselves out to be purchasing regulated property within the county shall be presumed to be operating a business subject to the terms of this subchapter.
('90 Code § 6.81.030) (Ord. 647, passed 1990) Penalty, see § 15.999

§ 15.304 APPLICATION FOR PERMIT.

(A) An application for an occasional secondhand dealer's permit or a secondhand dealer's permit shall set forth the following information:

(1) The name, address, telephone number, birth date and principal occupation of the applicant and any other person who will be directly engaged or employed in the management or operation of the business or the proposed business;

(2) The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;

(3) Written proof that the applicant is at least 18 years of age;

(4) The applicant's business occupation or employment for the three years immediately preceding the date of application;

(5) The business permit history of the applicant in operating a business identical to or similar to those regulated by this subchapter;

(6) A brief summary of the applicant's business history in the county or in any other city, county or state including:

(a) The business license or permit history of the applicant; and

(b) Whether the applicant has ever had any license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant subsequent to the suspension or revocation;

(7) If the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation:

(a) If a partnership, the application shall set forth the names, birth dates, addresses, telephone numbers, principal occupations, along with all other information required of any individual applicant of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;

(b) If a corporation, the application shall set forth the corporate name, copies of the articles of incorporation and the corporate bylaws, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, Sheriff and shareholder (owning more than 5% of the outstanding shares) and the number of shares held by each;

(8) Any criminal arrests or convictions relating to fraud or theft of each applicant and all natural persons enumerated in divisions (A)(1) through (7) of this section; and

(9) Any other information which the Sheriff may reasonably feel is necessary to accomplish the goals of this subchapter.

(B) The personal and business information contained in the application forms required pursuant to this section shall be treated as confidential and exempted from disclosure to the maximum extent permitted by law.
('90 Code § 6.81.040) (Ord. 647, passed 1990)

§ 15.305 ISSUANCE AND RENEWAL OF PERMIT.

(A) Upon the filing of an application for an occasional secondhand dealer or secondhand dealer permit and payment of the required fee, the Sheriff shall conduct an investigation of the applicant. The Sheriff shall issue such permit within 90 days of receiving a complete application if no cause for denial as noted herein exists.

(B) The Sheriff shall deny an application for an occasional secondhand dealer's permit or a secondhand dealer's permit if:

(1) The applicant, or any other person who will be directly engaged in the management or operation of the business, or any person who owns a 5% or more interest in the business has previously owned or operated a business regulated by this subchapter; and

(a) The license or permit for the business has been revoked for cause which would be grounds for revocation pursuant to this subchapter;

(b) The business has been found to constitute a public nuisance and abatement has been ordered; or

(c) Any of the persons involved in the business has been convicted of any criminal offense noted in §§ 15.304(A)(8) or 15.312; or

(2) The operation as proposed by the applicant would not comply with all applicable requirements of this code including building, health, planning, zoning and fire requirements.

(3) Any statement in the application is found to be false or any required information is withheld.

(4) Any employee is found to have committed any criminal offense relating to fraud or theft and the offense either occurred on the premises of the business subject to the permit or was connected in a time and manner with the operation of the business so that the person(s) in charge of such business knew, or should reasonably have known, that such violation(s) would occur.

(5) Evidence exists to support a finding that either:

(a) The location of the business for which the application has been filed has a history of violations of the provisions of this subchapter; or,

(b) A statistically significant record exists of criminal offenses relating to fraud or theft in the area located within 500 feet of the premises.

(6) The operation does not comply with applicable federal or state licensing requirements.

(C) Notwithstanding division (B) of this section, the Sheriff may grant a permit with the concurrence of the Sheriff despite the presence of one or more of the enumerated factors if the applicant establishes to the Sheriff's satisfaction that:

(1) The behavior evidenced by such factor is not likely to recur;

(2) The behavior evidenced by such factor is remote in time; and

(3) The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this subchapter.

(D) Occasional secondhand dealer permits and secondhand dealer permits shall be for a term of one year and shall expire on the anniversary of their issuance. The permits shall be nontransferable and shall be valid only for a single location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Sheriff for approval at least ten days prior to such change.

(E) All occasional secondhand and secondhand dealer permits shall be displayed on the business premises in a manner readily visible to patrons.

(F) (1) The Sheriff, upon denial of an application for an occasional secondhand dealer's permit or a secondhand dealer's permit, shall give the applicant written notice of the denial by causing notice to be served upon the applicant at the business or residence address listed on the application.

(2) Service of the notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the Sheriff, by personal service in the same manner as a summons served in an action at law.

(3) Refusal of the service by the person whose permit is denied shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

(4) The denial shall be effective and final the date the notice is received by applicant as evidenced by the return receipt or the return of service.

(G) Denial of a permit may be appealed to the Board by filing written notice of an appeal with the clerk of the Board within ten days of the date of denial, in accordance with § 15.314.
('90 Code § 6.81.050) (Ord. 647, passed 1990)

§ 15.306 PERMIT FEES.

(A) Every person engaged in, conducting or carrying on an occasional secondhand dealer business shall:

(1) For an occasional secondhand dealer's permit, file an application within 60 days of the effective date of this subchapter with the Sheriff and pay a nonrefundable fee in an amount set by Board resolution.

(2) For renewal of an occasional secondhand dealer's permit, shall pay a nonrefundable fee in an amount set by Board resolution.

(B) Every person engaged in, conducting or carrying on a secondhand dealer's business shall:

(1) File an application within 60 days of the effective date of this subchapter with the Sheriff and pay a nonrefundable fee in an amount set by Board resolution. The Sheriff shall allow occasional secondhand dealer application fee against the charge for the secondhand dealer application fee.

(2) For renewal of a secondhand dealer's permit, pay a nonrefundable fee in an amount set by Board resolution.
('90 Code § 6.81.060) (Ord. 647, passed 1990)

§ 15.307 SUBSEQUENT LOCATIONS.

(A) The holder of a valid occasional secondhand dealer's permit or a secondhand dealer's permit shall file an application for a permit for an additional location with the Sheriff and shall not be required to pay any fee provided the information required for the subsequent location is identical to that provided in the application for the prior location with the exception of that required by § 15.304(A)(6).

(B) Permits issued for subsequent locations shall be subject to all the requirements of this subchapter, and the term of any permit issued for a subsequent location shall expire on the same date as the initial permit.
('90 Code § 6.81.070) (Ord. 647, passed 1990)

§ 15.308 SELLER IDENTIFICATION; PURCHASE REPORT FORMS.

(A) The Sheriff shall provide all occasional secondhand dealers and secondhand dealers with purchase report forms at cost. The Sheriff may specify the size, shape and color of the purchase report form. The Sheriff may require the purchase report forms to provide any information relating to the regulations of this subchapter. Occasional secondhand dealers and secondhand dealers may utilize their own forms, in lieu of those supplied by the Sheriff, if such forms have been approved by the Sheriff.

(B) (1) When purchasing regulated property, occasional secondhand dealers and secondhand dealers shall obtain acceptable identification and a current residential address from the seller.

(2) All occasional secondhand dealers and secondhand dealers shall write a description of the purchased property upon a purchase report form at the time of purchasing any item of regulated property. The description of the purchased property shall be as called for by the purchase report form. All occasional secondhand dealers and secondhand dealers shall fill in all of the blank spaces on the purchase report forms with the data required by the form and require the person selling any regulated property to sign his or her name on the form. All purchase report forms shall be filled out in clearly legible, printed English.

(3) The information required to be furnished on purchase report forms is to assist in the investigation of the theft of property. The information is of a confidential nature and related to the personal privacy of persons doing business with the dealer, as well as certain trade secrets and practices of occasional secondhand dealers and secondhand dealers. The information shall be treated as confidential and exempt from disclosure to the maximum extent possible under applicable laws.

(C) All occasional secondhand dealers and secondhand dealers shall mail or deliver to the Sheriff at the close of each business day the original and second copy of all report forms describing articles purchased that business day.

(D) The third copy of all completed report forms shall be retained by occasional secondhand dealers and secondhand dealers for a period of not less than one year from the date of purchase on their business premises.
('90 Code § 6.81.080) (Ord. 647, passed 1990) Penalty, see § 15.999

§ 15.309 SALE LIMITATIONS.

(A) No regulated property purchased by any occasional secondhand dealer or secondhand dealer shall be sold for a period of 15 full days after the date of purchase. The dealer shall maintain the purchased property in substantially the same form as purchased and shall not commingle the property to preclude identification during this 15-day holding period. The purchased property shall be located on the business premises during normal business hours during this holding period so that it can be inspected as provided in § 15.311. Notwithstanding this requirement, the Sheriff may authorize the sale or transfer of an item of purchased regulated property before the expiration of this period, in cases in which the dealer shows that extreme financial hardship will result from holding such property for the 15-day period.

(B) The Sheriff may provide written notice, upon reasonable belief that the purchased property is the subject of theft, to any occasional secondhand dealer or secondhand dealer not to dispose of any specifically described property purchased. The dealer shall retain the property in substantially the same form as purchased. The dealer shall not sell, exchange, dismantle or otherwise dispose of the property for a period of time, as determined by the Sheriff, not to exceed 180 days from the date of purchase.

(C) If an occasional secondhand dealer or secondhand dealer purchases regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which are or have been altered, obliterated, removed, or otherwise rendered illegible, the occasional secondhand dealer or secondhand dealer shall hold such property on the business premises for a period of 90 full days after purchase. The dealer shall maintain the purchased regulated property in substantially the same form as purchased and shall not commingle the property so as to preclude identification during this 90-day holding period. Such property shall be located on the business premises during normal business hours during this holding period so that it can be inspected, as provided in § 15.311.
('90 Code § 6.81.090) (Ord. 647, passed 1990) Penalty, see § 15.999

§ 15.310 TAGGING REQUIRED.

Any occasional secondhand dealer or secondhand dealer purchasing any regulated property shall affix to property, during the holding period required by § 15.309, a tag upon which shall be written a number in legible characters. The number shall correspond to the number on the purchase report forms required by § 15.308.
('90 Code § 6.81.100) (Ord. 647, passed 1990) Penalty, see § 15.999

§ 15.311 INSPECTION OF PROPERTY AND RECORDS.

Upon presentation of official identification, the Sheriff may enter onto the business premises of any person with an occasional secondhand dealer or secondhand dealer permit to ensure compliance with the provisions of this subchapter. The inspection shall be for the limited purpose of inspecting any regulated property purchased by the dealer, held by the dealer pursuant to § 15.309, or the records incident thereto. Any such inspection shall only be authorized to occur during normal business hours.
('90 Code § 6.81.110) (Ord. 647, passed 1990)

§ 15.312 PROHIBITED ACTS.

It shall be unlawful for any person acting as owner, manager, agent or employee of a business regulated by this subchapter to commit any of the following:

(A) To engage in, conduct or carry on the operation of any occasional secondhand dealer business or secondhand dealer business within the county, unless a permit for such business has first been obtained from the Sheriff;

(B) To fail to obtain acceptable identification from the person selling any regulated property;

(C) To fail to have the person selling any regulated property sign the purchase report form describing the article purchased;

(D) To fail to retain on the business premises a copy of the purchase report form describing the purchased regulated property for a period of one year from the date of purchase;

(E) To fail to mail or deliver to the Sheriff at the close of each business day the original and second copy of all purchase report forms describing regulated property purchased during that business day;

(F) To fail to include on the purchase report form all readily available information required by the form;

(G) To fail to withhold from sale any regulated property for the required holding period after purchase;

(H) To fail, after purchasing regulated property, to retain during normal business hours on the business premises for the required holding period after its purchase;

(I) To fail to allow inspection by the Sheriff of any regulated property being retained pursuant to this subchapter;

(J) To fail to allow inspection by the Sheriff of any records required by this subchapter;

(K) To fail to have affixed to any purchased regulated property, during the required holding period, a tag upon which is written a number in legible characters which corresponds to the number on the purchase record form required by this subchapter; or

(L) To continue activities as an occasional secondhand dealer or secondhand dealer after suspension or revocation of a permit.
('90 Code § 6.81.120) (Ord. 647, passed 1990) Penalty, see § 15.999

§ 15.313 REVOCATION OR SUSPENSION OF PERMIT.

(A) The Sheriff shall revoke or suspend any permit issued pursuant to this subchapter:

(1) Upon the recommendation of the Sheriff:

(a) For any cause which would be grounds for denial of a permit;

(b) Where investigation reveals that any violation of the provisions of this subchapter or any offense noted in § 15.312 has been committed by any person and such offense is connected in time and manner with the operation of the business so that the person(s) in charge of such establishment knew, or should reasonably have known, that such violations have been permitted to occur on the premises by the permit holder or any employee;

(2) A lawful inspection has been refused;

(3) Upon a finding by the Sheriff that the business activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion or other locational problems in the area around such premises;

(4) If payment of civil penalties has not been received by the Sheriff within ten working days after the penalty becomes final;

(5) If any statement contained in the application for the permit is found to have been false; or

(6) If any occasional secondhand dealer business or secondhand dealer business fails to meet the federal or state licensing requirements.

(B) (1) The Sheriff, upon revocation or suspension of any permit issued pursuant to this subchapter, shall give the permittee written notice of such revocation or suspension by causing notice to be served upon the permit holder at the business or residence address listed on the permit application.

(2) Service of the notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the Sheriff, by personal service in the same manner as a summons served in an action at law.

(3) Refusal of the service by the person whose permit is suspended or revoked shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

(C) Suspension or revocation shall be effective and final ten days after the giving of such notice unless such suspension or revocation is appealed, in accordance with § 15.314.
('90 Code § 6.81.140) (Ord. 647, passed 1990)

§ 15.314 APPEALS.

(A) (1) The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the Sheriff, under this subchapter shall stay the effective date of the action until the appeal is determined by the Board.

(2) The notice of appeal shall state the name and address of the appellant to which all notices required herein may be mailed. The notice shall also indicate the reasons why the action was incorrect and what the correct determination should be.

(3) The appellant shall be deemed to have waived the right to object and the appeal shall be dismissed if:

(a) The notice of appeal is not filed within the specified time; or

(b) The notice of appeal does not otherwise conform to these requirements.

(B) (1) Upon receipt of notice of the appeal, the clerk of the Board shall give notice of the filing of the appeal to the Sheriff, who shall file a report with the Board containing the reasons for such action. Upon receiving the Sheriff's report, the clerk of the Board shall set a date for a Board hearing of the appeal and shall notify the appellant of the hearing date.

(2) At the Board hearing, the Sheriff shall report to the Board the Sheriff's reasons for the action. The appellant shall have the opportunity to present evidence and oral argument to the Board and to file a written statement. A record shall be made of this hearing. At the conclusion of the hearing, the Board shall determine the appeal and direct that written findings be prepared. If the Board denies the appeal of the denial of the application, the revocation, suspension, or civil penalty, the action shall be effective upon the Board's signing the findings. The decision of the Board shall be final.
('90 Code § 6.81.150) (Ord. 647, passed 1990)

§ 15.315 NUISANCE DECLARED.

Any business maintained in violation of the provisions of this subchapter is declared to be a public nuisance. The County Counsel is authorized to bring any action or suit to abate such nuisance by seeking injunctive or other appropriate relief to the following:

(A) Cease all unlawful activities;

(B) Close the unlawful business establishment;

(C) Return property obtained through unlawful activities to the rightful owners;

(D) Seek payment of civil penalties assessed by the Sheriff; or

(E) Seek such other relief as may be appropriate.
('90 Code § 6.81.160) (Ord. 647, passed 1990)
Penalty, see § 15.999

EMERGENCY AREA REGULATIONS

§ 15.325 DECLARATION OF EMERGENCY AREA; CURFEW.

(A) The Sheriff or the Sheriff's designated representative, shall have authority to:

(1) Designate an area within the county or over which the county may exercise police jurisdiction, an emergency area;

(2) Fix the limit of the area in the case of any disaster, catastrophe or civil disorder which, in the Sheriff's opinion, warrants the exercise of emergency control in the public interest;

(3) Fix the duration of time during which the area designated shall remain an emergency area; and

(4) Publicly announce or proclaim a curfew for the area which shall fix the hours during which all persons other than authorized official personnel shall be prohibited from being on the streets, in parks or other public places without authorization of the Sheriff.

(B) Declaration of an emergency area under authority of this subchapter shall be considered an exercise of the police power.
('90 Code § 7.40.100) (Ord. 18, passed 1968)

§ 15.326 POWERS OF SHERIFF.

(A) Whenever any area has been designated as an emergency area under § 15.325, within the boundaries of the area the Sheriff shall have authority to:

(1) Regulate or prohibit ingress and egress to and from the area;

(2) Limit or prohibit the movement of any persons within the area;

(3) Move any property within the area;

(4) Evacuate any persons from the area whenever and to the extent that the Sheriff finds human lives or property are endangered; and

(5) Enter into or upon private property, or direct entry to prevent or minimize danger to lives or property.

(B) The Sheriff shall have authority to barricade streets and to prohibit or regulate travel upon any street, avenue or highway leading to an area designated as an emergency area for such distance as the Sheriff considers necessary under the circumstances.
('90 Code § 7.40.200) (Ord. 18, passed 1968)

§ 15.327 EFFECT OF CURFEW; EXCEPTIONS.

It shall be unlawful for any person to violate any curfew established under § 15.325 or to violate any measure taken under authority of § 15.326(A) and (B). The provisions of this section shall not apply to official personnel authorized to be on the streets, in parks or other public places during the period of time for which a curfew has been established or other measures taken.
('90 Code § 7.40.300) (Ord. 18, passed 1968) Penalty, see § 15.999

§ 15.328 ACCESS PRIOR TO DECLARATION AS EMERGENCY AREA; FINDINGS.

The Board finds that certain emergencies may require the responding peace officers to immediately restrict public access to the areas affected, before the area has been designated as an emergency area by the Sheriff, pursuant to § 15.325. It is necessary that peace officers who respond to such emergencies have authority to restrict access to the area affected, in order to protect the health, welfare and safety of the people of the county. Sections 15.328 through 15.330 shall be liberally construed to effectuate the purposes expressed herein.
('90 Code § 7.41.015) (Ord. 455, passed 1985)

§ 15.329 AUTHORITY OF PEACE OFFICER TO RESTRICT ACCESS TO AREAS.

(A) Whenever a threat to the public health or safety is created by any fire, explosion, accident, cave-in, or similar emergency, catastrophe or disaster, or by disturbance, riot, presence of an armed person, hostage being held, or other disturbance, a peace officer may restrict or deny access to persons to the area where such threat exists, for the duration of such threat, when the presence of such persons in such area would constitute a danger to themselves or when such officer reasonably believes that the presence of such persons would substantially interfere with the performance of police or other emergency services.

(B) Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of, criminal acts, a peace officer may restrict or deny access to any room, building or enclosure, or any open area, by cordoning off such area by the use of persons, vehicles, ropes, markers or any other means.

(C) As used in this section, ***RESTRICT OR DENY ACCESS*** means that the peace officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

(D) It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to divisions (A) and (B) of this section, unless such person has specific statutory authority, or the permission of the on-scene ranking peace officer, to be within such area.

(E) In accordance with the authority granted by this section, and in consideration of the law enforcement and emergency services needs involved, provisions shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.
('90 Code § 7.41.020) (Ord. 455, passed 1985) Penalty, see § 15.999

§ 15.330 INTERFERING IN EMERGENCIES.

It is unlawful for any person to stop or remain in the vicinity of a fire, explosion, accident, cave-in, or similar emergency or disaster, or where such an emergency or disaster is threatened, or in the vicinity of a riot, affray or arrest, when that person's presence may be unsafe for that person or others, or may interfere with rescue, firefighting or other emergency aid, after being notified by a peace officer to move to

a place outside the area of danger or interference.
('90 Code § 7.41.030) (Ord. 455, passed 1985)
Penalty, see § 15.999

CIVIL FORFEITURE

§ 15.350 TITLE.

This subchapter shall be known and cited as the Forfeiture Law of the county.
('90 Code § 7.85.005) (Ord. 442, passed 1984)

§ 15.351 DEFINITIONS; INCORPORATION OF STATE LAW.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

PROHIBITED CONDUCT. Includes violation of, solicitation to violate, attempt to violate or conspiracy to violate any provisions of ORS 164.005 through 164.125 (Theft), ORS 164.135 (Unauthorized Use of a Vehicle), ORS 164.205 through 164.225 (Burglary), ORS 167.002 through 167.027 (Prostitution and Related Offenses), ORS 167.117 through 167.153 (Gambling Offenses) and ORS 163.665 through 163.695 (Visual Recording of Sexual Conduct by Children), and ORS 811.182(3)(g) (Driving While Driving Privileges are Suspended or Revoked for a Driving Under the Influence of Intoxicants Conviction).

(B) This chapter incorporates by reference as though fully set forth 1989 Oregon Laws, Chapter 791, §§ 2(1) through (10) and §§ 2(12) through (14), inclusive.
('90 Code § 7.85.011) (Ord. 633, passed 1989)

§ 15.352 POLICY AND PURPOSE.

(A) The Board finds that:

(1) The use of profits, proceeds or instrumentalities in theft (ORS 164.005 through 164.125); unauthorized use of a vehicle (ORS 164.135); burglary (ORS 164.205 through 164.225); gambling offenses (ORS 167.117 through 167.153); prostitution and related offenses (ORS 167.002 through 167.027) and visual recording of sexual conduct by children (ORS 163.665 through 163.695) and driving while driving privileges are suspended or revoked resulting from a conviction for driving under the influence of intoxicants (ORS 811.182(3)(g)) have and are proliferating in the county, and the presence of such activities is detrimental to the public health, safety, welfare and quality of life in the county;

(2) In particular, gambling and prostitution activities involving the use of conveyances and real property and conveyances used by drivers whose driving privileges have been suspended or revoked resulting from a conviction for driving under the influence of intoxicants have been and are proliferating in the county, and the presence of these activities is detrimental to the safety and quality of life in the county and therefore the specified conveyances and real property are nuisances;

(3) The prohibited conduct defined in this chapter is undertaken in the course of profitable activities which result in, and are facilitated by, the acquisition, possession or transfer of property subject to civil forfeiture under this subchapter;

(4) Transactions involving property subject to forfeiture under this subchapter escape taxation;

(5) Local government's attempts to respond to prohibited conduct require additional resources to meet its needs;

(6) There is a need to provide for the civil forfeiture of certain property subject to forfeiture under this subchapter, to provide for the protection of the rights and interests of affected persons, and to

provide for uniformity with respect to the laws pertaining to the forfeiture of real and personal property; and

(7) The instrumentalities, profits and proceeds of prohibited conduct are often used to commit the same or another prohibited conduct and the return of the property thus serves to encourage and perpetuate the commission of prohibited conduct in the county.
('90 Code § 7.85.021) (Ord. 633, passed 1989)

§ 15.353 FORFEITURE.

The following will be subject to civil in rem forfeiture:

(A) All property, products and equipment of any kind which are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct.

(B) All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use, to transport or in any manner facilitate the transportation, sale, receipt, possession or concealment of property described in division (A) of this section, and all conveyances including aircraft, vehicles or vessels, which are used or intended for use in prohibited conduct or to facilitate prohibited conduct in any manner. Such conveyances specifically include, but are not limited to, the following:

(1) A conveyance operated by a person whose operator's license is suspended or revoked as a result of conviction for driving under the influence of intoxicants in violation of the provisions of local or state law;

(2) A conveyance within which an act of prostitution as prohibited by local or state law; or

(3) A conveyance used or intended to be used to facilitate activities defined in ORS 167.012 (Promoting Prostitution), ORS 167.017 (Compelling Prostitution), or ORS 167.122 through 167.137 (Gambling Offenses).

(C) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless the owner or other person in charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct.

(D) No property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or any state. Such property shall be returned to the owner following a determination by the court that the property was unlawfully in the possession of a person other than the owner, and the owner did not know it, and did not consent to the use of the property for prohibited conduct.

(E) This subchapter incorporates by reference state law.
('90 Code § 7.85.026) (Ord. 633, passed 1989)

§ 15.354 FORFEITURE PROCEDURES.

The forfeiture procedures of state law are hereby incorporated by reference.
('90 Code § 7.85.031) (Ord. 633, passed 1989)

§ 15.355 DISTRIBUTION OF PROCEEDS.

After the forfeiture counsel distributes property under the provisions of state law, the forfeiture counsel shall disperse of and distribute property in the following manner:

(A) If the seizing agency has an intergovernmental agreement pursuant to state law, the terms of the intergovernmental agreement shall control the distribution of the property.

(B) If the seizing agency does not have an intergovernmental agreement pursuant to state law, the seizing agency shall recover 50% of the property, the county district attorney's office shall recover 35%

of the property and the remaining 15% shall be credited to the county general fund for criminal justice services.

(C) If more than one law enforcement agency has participated in the investigation leading to forfeiture, the participating agencies shall share the 50% of the proceeds ordinarily remitted to the seizing agency equitably between the participating agencies.

(D) Except as otherwise provided by intergovernmental agreement, the forfeiting agency may:

(1) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney;

(2) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property;

(3) Retain the property; or

(4) With written authorization from the district attorney for the forfeiting agency's jurisdiction, destroy any firearm or contraband.

(E) The forfeiting agency, and any agency which receives forfeited property or proceeds from the sale of forfeited property, shall maintain written documentation of each sale, decision to return, transfer or other disposition.
('90 Code § 7.85.036) (Ord. 633, passed 1989)

LIQUOR LICENSES

§ 15.400 PURPOSE.

The purposes of this subchapter are to establish the principal criteria which shall be considered by the Board and the Sheriff, in making recommendations to the state Liquor Control Commission concerning the granting, denying, modifying or renewing of all liquor licenses for premises within unincorporated the county and to establish a process, to be utilized for the investigation of such license applicants for the purpose of making such recommendations, that is fair, effective and efficient. This subchapter is necessary to ensure that all premises licensed to sell or dispense liquor in any form meet the high expectations of this community, and that all businesses are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this county and its neighborhoods.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.401 APPLICATION PROCEDURE.

(A) Any applicant for any license who is required by the state Liquor Control Commission to have a recommendation from the county concerning the suitability of such application shall present the license application forms prescribed by the Liquor Control Commission to the Sheriff for the purpose of obtaining the recommendation of the county concerning such a license.

(B) For the purpose of conducting the investigation to ascertain pertinent information bearing upon such county recommendations, the Sheriff may require such other information in addition to that provided upon the Liquor Control Commission application forms as it deems appropriate.

(C) The Sheriff shall accept liquor license applications only when the following conditions are met:

(1) All required forms are properly completed and in order; and

(2) The processing fees, in amounts established by Board resolution, and as allowed by ORS, have been paid.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.402 INVESTIGATION.

(A) The Sheriff shall coordinate and conduct an investigation of each application for the purpose of determining what recommendation shall be made to the Board, using the procedures set forth in division (B) of this section.

(B) (1) All applicants shall be checked for any and all prior arrest records or violations of Liquor Control Commission regulations.

(2) All applicants shall be checked for prior community relations problems under another license.

(3) The business locations shall be examined and must be in the best interests of the community.

(4) All renewal applications shall be reviewed and checked for prior negative impact on the community.

(5) All new outlets, or change of location/privilege shall be referred to the zoning section for verification of the proposed use under the county zoning code.

(6) All new and renewal applications shall be checked to determine whether there are delinquent personal or real property taxes due and owing for the premises.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.403 RECOMMENDATIONS TO THE BOARD.

Upon completion of the investigation procedures, the Sheriff shall forward to the Board a recommendation of approval or denial. The clerk of the Board then places the matter on the Board's agenda, in order that the Board may then make a recommendation of approval or denial to the state Liquor Control Commission.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.404 DENIAL OF LICENSE.

The Sheriff may make a recommendation of denial to the Board regarding any application if:

(A) The applicant's record reflects a pattern of violation of the alcoholic liquor laws of this state;

(B) The applicant has a history of use of controlled substances or use of alcoholic beverages to excess;

(C) The record of the applicant shows violation(s) of criminal law(s) or ordinance(s) connected in time, place or manner with a liquor establishment or which demonstrate a disregard for law;

(D) The applicant has maintained, or allowed to exist, an establishment which creates or is a public nuisance under the ordinances of the county or laws of the state or in which any violation of the provisions of the code, or federal or state law relating to minors, gambling, obscenity, controlled substances, prostitution or alcoholic beverages, or ORS Chapters 163, 164, 165 and 166 have occurred, or which creates an increase in disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other location problems, in the reasonable proximity of such premises;

(E) The applicant's premises are not maintained in reasonable repair, both interior and exterior, and kept clean and free of litter, rubbish, and dirt;

(F) The applicant's premises are found to be a nuisance under the terms of this chapter;

(G) In the case of an application for a new license or for an increase in liquor selling or dispensing privilege, there are sufficient licensed premises in the locality set out in the application and the license is not demanded by public interest or convenience;

(H) The licensing of the premises would not be in the best interests of the community because of a history of illegal activities, altercations, noisy conduct, or other disturbances in or around the premises;

(I) The applicant has demonstrated an unwillingness or inability to cooperate with county agencies or neighbors in resolving community disputes related to a licensed establishment;

(J) If the zoning section finds that the proposed new outlet, or change of location/privilege is found to be in violation of the zoning code. However, the applicant may file an application for change of zone, conditional use which would permit such use;

(K) If there are delinquent real or personal property taxes due and owing for the premises at the time of application or renewal, a recommendation of denial is mandatory; and

(L) If there is any other specific reason consistent with the purposes of this subchapter which may, in the opinion of the Sheriff, warrant an adverse report to the Board based upon public health, safety, welfare, convenience or necessity.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.405 HEARINGS; NOTIFICATION.

(A) When the Sheriff makes a recommendation for denial of any application, the clerk of the Board shall notify, by certified mail, the applicant, the Liquor Control Commission, and the Sheriff of the hearing date, place and time at least one week before such hearing takes place. The presiding officer of the Board may also contact the neighborhood associations concerned.

(B) When the Sheriff makes a recommendation for approval of an application for which the Sheriff or the Board has received complaints or concerns from citizens or other business establishments, or for which there may be other controversy, the clerk of the Board shall notify those concerned citizens or business establishments and the applicant of the hearing date, place and time.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.406 HEARING PROCEDURES.

When the Board has scheduled a hearing on any liquor license application, such applicant shall be given a reasonable opportunity to be heard and address concerns raised by the Sheriff, the Board, and persons or groups appearing in opposition to such an application. The Board's recommendation of approval or denial of such application, based upon a determination of what course of action best serves the interest of the citizens of the county, shall be final.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.407 RECONSIDERATION OF APPLICATIONS.

After having made a recommendation of denial on any liquor license application, the Sheriff and the Board shall not consider any new application for the same location by the same or substantially the same applicant for a period of at least six months or while such applicant has pending an appeal in court or in a state administrative agency related to such a license. Notwithstanding, the Sheriff may reconsider or resubmit such an application to the Board in less than six months if it is reasonably believed that a recommendation of denial has substantially changed,

and no court or administrative appeal of such license is pending.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

§ 15.408 TEMPORARY LICENSES.

On any application for a temporary liquor license which will be in effect for five days or less, review by the Board shall not be automatically required. The Sheriff has authority to make a recommendation of approval to the Liquor Control Commission on such applications. If the Sheriff recommends denial of any application for a temporary license, the application shall be reviewed by the Board as outlined in §§ 15.405 and 15.406.
('90 Code § 5.10.020) (Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 412, passed 1984; Ord. 420, passed 1984; Ord. 724, passed 1992; Ord. 799, passed 1994)

POLICE IMPERSONATION

§ 15.450 UNAUTHORIZED VEHICLES DISPLAYING POLICE INSIGNIA.

No person shall own or operate a private motor vehicle in the county outside of incorporated cities marked or identified by the word "police" or any other marking or insignia identifying the vehicle as a police vehicle.
('90 Code § 7.90.100) (Ord. 35, passed 1970) Penalty, see § 15.999

NEIGHBORHOOD WATCH SIGNS

§ 15.500 FINDINGS.

The Board finds:

(A) The Sheriff, in cooperation with the community, has instituted an observation and reporting program by which the residents of blocks can organize to better protect themselves against neighborhood intruders who are there for unlawful purposes.

(B) It has been proposed that when residents of a block have met certain requirements that they be allowed to place signs within the right-of-way which indicate that the block is protected by neighborhood watch.

(C) The granting of this request will not be detrimental to the public interest under certain conditions.
('90 Code § 2.70.305) (Ord. 399, passed 1983)

§ 15.501 PERMIT; STANDARDS.

(A) A revocable permit is granted to the Sheriff to have the signs referred to in § 15.500 placed in the public rights-of-way subject to the conditions set forth in division (B) of this section.

(B) (1) Signs and signposts shall be furnished and installed by the requesting neighborhood.

(2) All signs and locations shall be approved by the traffic engineer.

(3) The signs, when installed, shall conform to the county engineer's standard plan.

(4) The Sheriff shall maintain a record of installed sign locations.

(5) The county shall remove signs not in conformance with the county engineer's standard plan and the traffic engineer's approved location.
('90 Code § 2.70.320) (Ord. 399, passed 1983)

CRIMINAL JUSTICE INFORMATION

§ 15.550 PURPOSE.

It is the purpose of this subchapter to assure that criminal history record information, wherever it appears, is stored, collected, and disseminated in a manner to insure the completeness, integrity, accuracy, and security of such information, and to protect individual privacy.
('90 Code § 7.80.010) (Ord. 201, passed 1979)

§ 15.551 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ACCESS. The authority to review or receive information from files, records, or an information system, whether manual or automated.

ATTORNEY. An attorney at law authorized by a person to assert the confidentiality of right of access to criminal history record information under this subchapter.

AUTHORIZED REPRESENTATIVE. Aparent, or a guardian, or conservator, other than an attorney, appointed to act on behalf of a person and empowered by such person to assert the confidentiality of or right of access to personal data under this subchapter.

CRIMINAL HISTORY RECORD INFORMATION (CHRI). Information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any dispositions arising therefrom, including sentencing, correctional supervision, and release. The term does not include information contained in original records of arrest, arrest logs, or reports of crimes available for inspection under terms of ORS 192.410 to 192.505, and identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

CRIMINAL JUSTICE ADMINISTRATION. The performance of the following activities: detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

CRIMINAL JUSTICE AGENCY. Any court or other governmental agency or any subunit thereof which performs the administration of justice pursuant to any statute or any executive order, and which allocates a substantial part of its budget to the administration of criminal justice and any agency specially designated as a criminal justice agency by executive order of the governor of the state.

CRIMINAL JUSTICE INFORMATION (CJI). Information collected by criminal justice agencies that is needed for the performance of their legally authorized and required functions. This is the broadest information term and includes CHRI and investigative and intelligence information. It does not include agency personnel or administrative records used for agency operations or management.

DISPOSITION. Information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, and also disclosing the nature of the termination in the proceedings, or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Disposition shall include, but not be limited to, acquittal, bail forfeiture, bound over for trial after preliminary hearing, bound over for trial--preliminary hearing waived, convicted, dismissed--civil action, dismissed--defense motion, dismissed--prosecutor motion (withdrawn), dismissed--court motion, extradited, judgment on guilty or "nolo" plea, not responsible, charge reduced, case continued without

finding, deceased, deferred disposition, pardoned, probation before conviction, sentence commuted, mistrial--defendant discharged, executive clemency, placed on probation, paroled, released from correctional supervision, charge dropped by arresting agency, charge dropped by prosecutor, or charge dropped--invalid warrant.

DISSEMINATION. The transmission of information, whether orally, in writing or electronically, to anyone outside the agency which maintains the information, except reports to an authorized repository.

INTELLIGENCE AND INVESTIGATIVE INFORMATION (I and I). Information compiled in an effort to anticipate, prevent or monitor possible criminal activity, or compiled in a course of investigation of known or suspected crimes.

PERSON. An individual of any age concerning whom criminal history record information is contained in a manual computerized file of any county criminal justice agency, or a person's attorney or authorized representative.
('90 Code § 7.80.020) (Ord. 201, passed 1979; Ord. 257, passed 1980)

§ 15.552 SCOPE.

This subchapter relates solely to criminal justice information stored, collected, and disseminated by agencies of county government, except that they shall not extend to include manual or automated information systems operated or maintained by the judiciary. It does not extend to original records of arrest, arrest logs, or reports of crimes available for inspection under terms of ORS 192.410 to 192.505.
('90 Code § 7.80.030) (Ord. 201, passed 1979)

§ 15.553 ACCESS TO CRIMINAL HISTORY RECORD INFORMATION.

Access to criminal history record information shall be limited to the following:

(A) Criminal justice agencies, where the information is to be used for criminal justice administration or criminal justice agency employment;

(B) Agencies or persons legally authorized to receive the specific information pursuant to statute, government regulation, court order, or legal directive; and

(C) Within county criminal justice agencies, personnel who have a bona fide need-to-know or need-to-handle criminal history record information to perform their assigned duties.
('90 Code § 7.80.040) (Ord. 201, passed 1979)

§ 15.554 ACCESS FOR RESEARCH PURPOSES.

Individuals or noncriminal justice agencies engaged in criminal justice research may be authorized by the Sheriff to have limited access to criminal history record information contained in files of county criminal justice agencies provided:

(A) The party seeking access submits a written request to the Sheriff setting forth the nature and scope of his research, the specific data requested, and the methodology to be employed in collecting, storing, and analyzing the data; and

(B) The Sheriff is satisfied that the party seeking access to the criminal history record information has a bona fide research purpose and has given sufficient assurance that no personal identification information or data (contained in CHRI) that can be associated with a particular individual will be disclosed to the public in any manner or form;

(C) The party seeking access to the criminal history record information gives written assurances to the Sheriff that he will use the criminal history record information data solely for research purposes set forth in his approved request.
('90 Code § 7.80.041) (Ord. 201, passed 1979)
Penalty, see § 15.999

§ 15.555 ACCESS TO INTELLIGENCE AND INVESTIGATIVE INFORMATION.

Notwithstanding any other provisions in this subchapter, intelligence and investigative information shall not be publicly disclosed so long as there is a clear need in a particular case to delay disclosure in the course of an investigation in accordance with ORS 192.500.
('90 Code § 7.80.045) (Ord. 201, passed 1979) Penalty, see § 15.999

§ 15.556 ACCURACY AND COMPLETENESS OF INFORMATION.

Each county criminal justice agency which stores, collects, or disseminates criminal history record information shall establish procedures to insure the accuracy and completeness of criminal history record information. No criminal history record information shall be disseminated until the information has been verified against computerized criminal history (CCH) records of the Oregon State Police (OSP). Whenever a county agency reports arrest information to OSP-CCH, that agency should report to OSP-CCH any disposition related to the reported arrest which occurs within the county within 90 days after the disposition has occurred. No information should be added to a person's criminal history record, whether automated or manual, unless the data is based upon a readily identifiable numbered source document and upon the assurance that the information pertains to the individual whose criminal history record is affected.
('90 Code § 7.80.050) (Ord. 201, passed 1979; Ord. 257, passed 1980) Penalty, see § 15.999

§ 15.557 RESTRICTIONS ON DATA ENTERED INTO COMPUTERIZED RECORDS.

Data shall not be entered into any computerized criminal history record which contains, in narrative or code, statements with evaluative, conjectural or judgmental content.
('90 Code § 7.80.055) (Ord. 201, passed 1979) Penalty, see § 15.999

§ 15.558 DISSEMINATION OF INFORMATION RELATED TO JUVENILES.

(A) Any information about a child's conduct which, if committed by an adult, would be an offense, may be provided by a law enforcement agency to another agency only when the information is pertinent to a specific investigation by that agency.

(B) Fingerprint and photograph files and records of children shall be kept separate from those of adults, and fingerprints and photographs known to be those of a child shall be maintained on a local basis only and not sent to central state or federal depository.

(C) Reports and other material relating to a child's history and prognosis are privileged and, except at the request of the child, shall not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those acting under his direction, and to the attorneys of record for the child or his parent or guardian.
('90 Code § 7.80.060) (Ord. 201, passed 1979; Ord. 257, passed 1980) Penalty, see § 15.999

§ 15.559 RIGHT TO ACCESS AND CHALLENGE.

(A) Any individual shall have the right of access to their own criminal history record information which is contained in manual or computerized files of any county criminal justice agency at no cost.

(B) Each county criminal justice agency which maintains CHRI shall establish procedures which:

(1) Inform an individual in writing, upon written request, whether the agency maintains criminal history record information concerning him;

(2) Make available to a person, upon written request, the criminal history record information concerning him;

(3) Allow a person to contest the accuracy, completeness or relevancy of his criminal history record information;

(4) Allow criminal history record information to be corrected upon written request of a person when the agency concurs in the proposed correction;

(5) Allow a person who believes that the agency maintains inaccurate or incomplete criminal history record information concerning himself to submit a written statement to the agency setting forth what he believes to be an accurate or complete version of that information. If, after a review of the statement, the agency does not concur and does not make the corrections requested in the statement, the statement shall be filed in a manual file in the agency's records section under an appropriate index number and any subsequent dissemination of the referenced criminal history record information shall disclose the existence of the statement challenging the accuracy or completeness of the information.
('90 Code § 7.80.070) (Ord. 201, passed 1979)

§ 15.560 ADMINISTRATION.

(A) Each criminal justice agency shall be responsible for the accuracy, completeness, and integrity of all information which it adds, modifies, and deletes from any criminal history record.

(B) Each county agency shall maintain a log of all disseminations of criminal history record information to individuals and non-criminal justice agencies outside its own organization. These logs shall include, but not be limited to, the following information about each individual record so disseminated:

(1) Date and time of day;

(2) Identification number of the record released;

(3) Identification of the person and agency who received the criminal history record information;

(4) Identification of the individual who released the criminal history record information.
('90 Code § 7.80.080) (Ord. 201, passed 1979)

PROPERTY INVENTORY

§ 15.600 PURPOSE.

This subchapter applies to inventories of personal property in an impounded vehicle and the personal possessions of anyone in law enforcement custody. It does not affect any statutory or constitutional right(s) that law enforcement officers may employ to search or seize possessions for other purposes.
('90 Code § 7.15.010) (Ord. 878, passed 1997)

§ 15.601 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CLOSED CONTAINER. A container the contents of which are not exposed to view.

LAW ENFORCEMENT CUSTODY.

(1) The imposition of restraint as a result of an arrest as that term is defined in ORS 133.005(1);

(2) The imposition of actual or constructive restraint by a law enforcement officer pursuant to a court order;

(3) The imposition of actual or constructive constraint by a law enforcement officer pursuant to ORS Chapter 426; or

(4) The imposition of actual or constructive restraint by a law enforcement officer for purposes of taking the restrained person to an approved facility for the involuntary confinement of persons pursuant to state law.

LAW ENFORCEMENT OFFICER. Any officer of the office of the Sheriff.

OPEN CONTAINER. A container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

VALUABLES.

(1) Cash money of an aggregate amount of $50 or more; or

(2) Individual items of personal property with a value of over $500.
('90 Code § 7.15.020) (Ord. 878, passed 1997)

§ 15.602 INVENTORIES OF CONTENTS OF IMPOUNDED VEHICLES.

(A) The contents of all vehicles impounded by a law enforcement officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

(1) If there is reasonable suspicion to believe that the safety of either the law enforcement officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or

(2) If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

(B) The purpose for the inventory of an impounded vehicle will be to the following:

(1) Promptly identify property to establish accountability and avoid spurious claims to property;

(2) Assist in the prevention of theft of property;

(3) Locate toxic, dangerous, flammable or explosive substances; and

(4) Reduce the danger to persons and property.

(C) Inventories of impounded vehicles shall be conducted according to the following procedure:

(1) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle, including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats, and under the seats;

(2) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:

(a) Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

(b) Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

(3) A closed container left either within the vehicle or any of the vehicle's compartments will have its contents inventoried only when:

(a) The closed container is to be placed in the immediate possession of a person at the time that person is placed in the secure portion of a custodial facility, law enforcement vehicle or secure law enforcement holding room;

(b) A person requests that the closed container be with him or her in the secure portion of a law enforcement vehicle or a secure law enforcement holding room; or

(c) The closed container is designed for carrying money or valuables, including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(D) Upon completion of the inventory, the law enforcement officer will complete a report as directed by the Sheriff.

(E) Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Sheriff.
('90 Code § 7.15.030) (Ord. 878, passed 1997)

§ 15.603 INVENTORIES OF PERSONAL PROPERTY OF PERSONS IN CUSTODY.

(A) A law enforcement officer will inventory the personal property in the possession of anyone taken into law enforcement custody and such inventory will be conducted whenever:

(1) Such person will be either placed in a secure law enforcement holding room or transported in the secure portion of a law enforcement vehicle; or

(2) Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to state law.

(B) The purposes of the inventory of a person in law enforcement custody will be to the following:

(1) Promptly identify property to establish accountability and avoid spurious claims to property;

(2) Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the law enforcement officer for safekeeping;

(3) Assist in the prevention of theft of property;

(4) Locate toxic, dangerous, flammable or explosive substances;

(5) Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; and

(6) Reduce the danger to persons and property.

(C) Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:

(1) An inventory will occur prior to placing such person into a holding room or a law enforcement vehicle, whichever occurs first. However, if there is reasonable suspicion to believe that the safety of the law enforcement officer(s), the person in custody, or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

(2) To complete the inventory of the personal property in the possession of such person, the law enforcement officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

(3) A closed container in the possession of such person will have its contents inventoried only when:

(a) The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, law enforcement vehicle or secure law enforcement holding room;

(b) Such person requests that the closed container be with him or her in the secure portion of a law enforcement vehicle or a secure law enforcement holding room; or

(c) The closed container is designed for carrying money or valuables on or about the person, including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(D) Valuables found during the inventory process will be noted by the law enforcement officer in a report as directed by the Sheriff.

(E) All items of personal property, neither left in the immediate possession of the person in custody, nor left with the facility or agency accepting custody of the person, will be handled in the following manner:

(1) A property receipt will be prepared listing the property to be retained in the possession of the Sheriff and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;

(2) The property will be dealt with in such manner as directed by the Sheriff.

(F) All items of personal property neither left in the immediate possession of the person in custody nor, dealt with as provided in division (E) above, will be released to the facility or agency accepting custody of the person so that they may:

(1) Hold the property for safekeeping on behalf of the person in custody; and

(2) Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.
('90 Code § 7.15.040) (Ord. 878, passed 1997)

DISPOSITION OF UNCLAIMED PROPERTY

§ 15.650 ACKNOWLEDGMENT OF UNCLAIMED PROPERTY.

Whenever the Sheriff has any property, including money, in his possession, the ownership of which is unknown and which is unclaimed for 30 days after the property came into his possession, the Sheriff shall report the fact to the Board and request authority to dispose of it as provided in this subchapter.
('90 Code § 7.70.100) (Ord. 24, passed 1969)

§ 15.651 PUBLIC SALE; NOTICE; PRIOR CLAIM OF OWNERSHIP.

The Board shall act upon the request of the Sheriff within 30 days after the receipt of the request. If the request is to have the property disposed of by public sale and if the Board approves the request, the Sheriff of the Department of Support Services shall post written or printed notice of sale in three public places within the county at least ten days before the sale. The notice shall describe the property, including money, and shall state the time and place of public sale at which the property may be purchased by the highest bidder. Until the date of the sale, the property, including money, may be claimed at the Sheriff's office. If ownership is proved, the Sheriff shall turn the property including money, over to the owner and cancel the sale insofar as the claimed property is concerned.
('90 Code § 7.70.150) (Ord. 24, passed 1969)

§ 15.652 BIDS BY COUNTY PERSONNEL PROHIBITED.

Members of the county government, including officials and employees, shall not be allowed to bid at the sale.
('90 Code § 7.70.200) (Ord. 24, passed 1969)

§ 15.653 DISPOSITION OF SALE PROCEEDS.

The Sheriff of the Department of Support Services shall conduct the sale and shall deposit the proceeds, after deducting the cost of the sale together with any other money included in the notice, in the county treasury to the credit of the county general fund.
('90 Code § 7.70.250) (Ord. 24, passed 1969)

§ 15.654 COUNTY USE OF UNCLAIMED PROPERTY.

In lieu of a sale of the property under §§ 15.650 through 15.653, the Sheriff, with the approval of the Board, may transfer any portion of unclaimed property to the county for use by the county. ('90 Code § 7.70.300) (Ord. 24, passed 1969)

§ 15.655 CLAIM BY OWNER AFTER DISPOSITION.

If the property is sold as provided in this subchapter and if, within six months after the sale, the owner of the property, including money, files with the Board a claim for the property, including money, and proves the owner's right to it, the Board shall direct that the money or the amount received for the property, less expenses of the sale, shall be paid to the owner from the county treasury. The Board shall not approve any claims filed more than six months after the sale. If the property is transferred to the county in lieu of sale, it may be claimed by the lawful owner at any time within one year from the transfer to the county. The Sheriff, in disposing of property in the manner provided in this subchapter, shall not be liable to the owner of the property. ('90 Code § 7.70.350) (Ord. 24, passed 1969)

§ 15.656 TRANSFERS OF PROPERTY ACQUIRED THROUGH CIVIL FORFEITURE LAWS.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

FORFEITED PROPERTY. All personal property other than cash or cash proceeds, the right, title, and interest of which has been granted to the county by the circuit court of the state pursuant to any of the following:

(a) Oregon Laws 1989, Chapter 791, §§ 1-10; or

(b) The county civil forfeiture provisions, §§ 15.350 through 15.355.

GOVERNMENT AGENCY. Any state agency, department, division, bureau, board, and commission; any county, city, school district, special district, municipal corporation, and any board, department, commission, council or agency thereof; and any other public agency of this state.

LAW ENFORCEMENT AGENCY. Any agency which employs police officers for the purpose of investigation and prosecution of criminal cases.

LAW ENFORCEMENT PURPOSE. Any activity which may be reasonably expected to result in the identification, apprehension, or conviction of criminal offenders.

POLICE OFFICER. Has the meaning given that term in ORS 133.525.

(B) *Types of transfers allowed.*

(1) Forfeited property may be transferred to any law enforcement agency to be used for law enforcement purposes; or

(2) Forfeited property may be transferred to any government agency within the state for a public purpose.

(C) *Approval of transfers.*

(1) All property transfers to law enforcement agencies shall be made at the discretion of the Sheriff of the county.

(2) All other property transfers shall be approved by resolution of the Board upon recommendation of the Sheriff.

(D) *Transfer documents.* Upon approval, the Sheriff shall transfer the forfeited property by executing a transfer document describing the property transferred, stating the transfer is without warranties of title, condition or fitness for a particular purpose. In addition, the transfer document shall give notice the transferee is required to maintain written

documentation of each sale, transfer or other disposition of the property as required by Oregon Laws 1989, Chapter 791, § 10(2).
('90 Code § 7.70.360) (Ord. 24, passed 1969; Ord. 676, passed 1991)

ALARM SYSTEMS

§ 15.700 TITLE.

This subchapter shall be known and cited as the Burglary and Robbery Alarm Law.
('90 Code § 7.51.005) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.701 PURPOSE AND SCOPE.

(A) The purpose of this subchapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency responses to false alarms and thereby to protect the emergency response capability of the county from misuse.

(B) This subchapter governs burglary and robbery alarm systems, requires permits, establishes fees, provides for allocation of revenues and deficits, provides for fines for excessive false alarms, provides for no response to alarms, provides for punishment of violations and establishes a system of administration.

(C) Revenue generated in excess of costs to administer this subchapter shall be allocated for the use of participating law enforcement agencies and for public education and training programs in reduction of false alarms in accordance with § 15.711.

(D) The provisions of this subchapter shall apply in any city in the county which has consented to the application of this subchapter. The provisions of this subchapter shall not apply in any city in the county which has in effect an ordinance having the same purpose as this subchapter and which is administered by the county pursuant to an intergovernmental agreement.
('90 Code § 7.51.010) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.702 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ALARM BUSINESS. The business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

ALARM SYSTEM. Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police are expected to respond.

ALARM USER. The person, firm, partnership, association, corporation, company or organization of any kind which owns, controls or occupies any building, structure or facility wherein an alarm system is maintained.

AUTOMATIC DIALING DEVICE. A device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response. Such a device is an alarm system.

BUREAU OF EMERGENCY COMMUNICATIONS. The city or county facility used to receive emergency and general information from the public to be dispatched to the respective police departments utilizing the bureau.

BURGLARY ALARM SYSTEM. An alarm system signaling an entry or attempted entry into the area protected by the system.

CHIEF OF POLICE. The chief of police of the law enforcement agency of the city in which the alarm has occurred, or designated representative, and in municipalities which do not have a chief of police, the mayor of the city or his designated representative.

ECONOMICALLY DISADVANTAGED PERSON. A person receiving public assistance or food stamps.

FALSE ALARM. An alarm signal, eliciting a response by police when a situation requiring a response by the police does not in fact exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

INTERCONNECT. To connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

NO RESPONSE. Peace officers will not be dispatched to investigate a report of an alarm signal.

PRIMARY TRUNK LINE. A telephone line serving the Bureau of Emergency Communications that is designated to receive emergency calls.

ROBBERY ALARM SYSTEM. An alarm system signaling a robbery or attempted robbery.

SOUND EMISSION CUTOFF FEATURE. A feature of an alarm system which will cause an audible alarm to stop emitting sound.

SYSTEM BECOMES OPERATIVE. When the alarm system is capable of eliciting a response by police.
('90 Code § 7.51.015) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.703 PERMITS REQUIRED.

(A) Every alarm user shall obtain an alarm user's permit for each system from the Sheriff within 30 days of the time when the system becomes operative. Users of systems using both robbery and burglary alarm capabilities shall obtain separate permits for each function. Application for a burglar or robbery alarm user's permit and a fee for each in an amount set by Board resolution shall be filed with the Sheriff each year. Each permit shall bear the signature of the Sheriff and be for a one-year period. The permit shall be physically upon the premises using the alarm system and shall be available for inspection by the Sheriff.

(B) If a residential alarm user is over the age of 62 or is an economically disadvantaged person and is a resident of the residence, and if no business is conducted in the residence, a user's permit may be obtained from the Sheriff's office according to division (A) of this section without the payment of a fee.

(C) A charge in an amount set by Board resolution will be charged in addition to the fee provided in division (A) of this section to a user who fails to obtain a permit within 30 days after the system becomes operative, or who is more than 30 days delinquent in renewing a permit.

(D) If an alarm user fails to renew a permit within 30 days after the permit expires, the Sheriff will notify the alarm user, by certified mail, that, unless the permit is renewed and all fees and fines are paid within 30 days from the date of mailing of the certified letter, police response to the alarm will thereafter be suspended. If the permit is not renewed and all fees and fines are not paid the Sheriff will suspend police response to the alarm and make notifications as provided in § 15.705.
('90 Code § 7.51.020) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.704 EXCESSIVE FALSE ALARMS; FINES.

(A) Fines will be assessed by the Sheriff for excessive false alarms during a permit year in amounts as set by Board resolution.

(B) The Sheriff will notify the alarm user and the alarm business by regular mail of a false alarm and the fine and the consequences of the failure to pay the fine. The Sheriff will also inform the alarm user of his or her right to appeal the validity of the false alarm to the Sheriff, as provided in § 15.709. If the fine has not been received in the Sheriff's office within 30 days from the day the notice of fine was mailed by the Sheriff and there is no appeal pending on the validity of the false alarm, the Sheriff will send the notice of fine by certified mail along with a notice of late fee in an amount set by Board resolution. If payment is not received within ten days of the day the notice of late fee was mailed, the Sheriff will initiate the no response process and may initiate the enforcement of penalties.
('90 Code § 7.51.025) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994) Penalty, see § 15.999

§ 15.705 EXCESSIVE ALARMS; NO RESPONSE.

(A) After the second false alarm, the Sheriff shall send a notification to the alarm user by mail which will contain the following information:

(1) That the second false alarm has occurred;

(2) That if two more false alarms occur within the permit year the police will not respond to any subsequent alarms without the approval of the Sheriff or the chief of police;

(3) That the approval of the Sheriff or chief of police can only be obtained by applying in writing for reinstatement. The Sheriff or chief of police may reinstate the alarm user upon a finding that reasonable effort has been made to correct the false alarms; and

(4) That the alarm user has the right to contest the validity of a false alarm determination through a false alarm validity hearing. The request for such a hearing must be in writing and within ten days of receipt of the notice of alarm from the Sheriff.

(B) After the fourth false alarm within the permit year there will be no police response to subsequent alarms without approval of the Sheriff or the chief of police. The Sheriff shall send a notification of the police response suspension to the following:

(1) The Sheriff of the Bureau of Emergency Communications;

(2) The Sheriff, if the alarm occurred in an unincorporated area; or

(3) The chief of police of the jurisdiction within which the alarm is located;

(4) The alarm user by certified mail; and

(5) The persons listed on the alarm user's permit who are to be contacted in case of emergency, by certified mail.

(C) The suspension of police response to an alarm shall begin ten days after the date of delivery of the notice of suspension of service to the alarm user unless a written request for a false alarm validity hearing has been made in the required time period as listed in § 15.709.
('90 Code § 7.51.035) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.706 SPECIAL PERMITS.

(A) An alarm user required by federal, state, county or city law to install, maintain and operate an alarm system shall be subject to this subchapter, provided:

(1) A permit shall be designated a special alarm user's permit;

(2) A special alarm user's permit for a system which has four false alarms in a permit year shall not be subject to the no response procedure and shall pay the regular fine schedule; and

(3) The payment of any fine provided for in division (A)(2) of this section shall not be deemed to extend the term of the permit.

(B) An alarm user that is a government unit is subject to this subchapter.
('90 Code § 7.51.040) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.707 USER INSTRUCTIONS.

(A) Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located in the area subject to this subchapter shall furnish the user with instructions that provide information to enable the user to operate the alarm system properly and to obtain service for the alarm system at any time. The alarm business shall also inform each alarm user of the requirement to obtain a permit and where it can be obtained.

(B) Standard form instructions shall be submitted by every alarm business to the Sheriff. If the Sheriff reasonably finds such instructions to be incomplete, unclear or inadequate, the Sheriff may require the alarm business to revise the instructions to comply with division (A) of this section and then to distribute the revised instructions to its alarm users.
('90 Code § 7.51.045) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994) Penalty, see § 15.999

§ 15.708 AUTOMATIC DIALING DEVICE; CERTAIN INTERCONNECTIONS PROHIBITED.

(A) It is unlawful for any person to program an automatic dialing device to select a primary trunk line and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line within 12 hours of receipt of written notice from the Sheriff that it is so programmed.

(B) It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to the county and it is unlawful for an alarm user to fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the Sheriff that an automatic dialing device is so programmed.
('90 Code § 7.51.050) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994) Penalty, see § 15.999

§ 15.709 HEARING.

(A) An alarm user who wants to appeal validity of a false alarm determination may appeal to the Sheriff for a hearing. The appeal must be in writing and must be requested within ten days of the alarm user having received notice of the alarm. Failure to contest the determination in the required time period results in a conclusive presumption for all purposes that the alarm was false.

(B) If a hearing is requested, written notice of the time and place of the hearing shall be served on the user by the Sheriff by certified mail at least ten days prior to the date set for the hearing, which date shall not be more than 21 nor less than ten days after the filing of the request for hearing.

(C) The hearing shall be before the Sheriff. The alarm user shall have the right to present written and oral evidence, subject to the right of cross examination. If the Sheriff determines that the false alarms alleged have occurred in a permit year, the Sheriff shall issue written findings waiving, expunging or entering a false alarm designation on an alarm user's record at his discretion. If false alarm designations are entered on the alarm user's record, the Sheriff shall pursue fine collection as set out in § 15.704.

(D) The Sheriff may appoint another person to be a hearings officer to hear the appeals and to render judgment.
('90 Code § 7.51.055) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.710 SOUND EMISSION CUTOFF FEATURE REQUIRED.

(A) Alarm systems which emit audible sound which can be heard outside the building, structure or facility of the alarm user, shall be equipped with a sound emission cutoff feature which will stop the emission of sound 15 minutes or less after the alarm is activated.

(B) When an alarm system can be heard outside a building, structure, or facility for more than 15 minutes continuously or intermittently, and the alarm owner or alarm company is not readily available or able to silence the device, it becomes a public nuisance and the Sheriff is authorized to physically disconnect the sounding device. The county shall not be liable for any cost of, or associated with, disconnecting or reconnecting the alarm. The alarm owner shall be liable for such costs.
('90 Code § 7.51.060) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994) Penalty, see § 15.999

§ 15.711 CONFIDENTIALITY; STATISTICS.

(A) All information submitted in compliance with this subchapter shall be held in the strictest confidence and shall be deemed a public record exempt from disclosure pursuant to ORS 192.502(3), and any violation of confidentiality shall be deemed a violation of this subchapter. The Sheriff shall be charged with the sole responsibility for the maintenance of all records of any kind under this subchapter.

(B) Subject to the requirements of confidentiality, the Sheriff shall develop and maintain statistics having the purpose of assisting alarm system evaluation for use by members of the public.
('90 Code § 7.51.065) (Ord. 610, passed 1989; Ord. 796, passed 1994)

§ 15.712 ALLOCATION OF REVENUES AND EXPENSES.

(A) With the exception of $4 of each permit fee paid by alarm users within the City of Portland, which shall be paid directly to the City of Portland, all fees, fines and forfeitures of bail collected pursuant to this subchapter or an ordinance of a city having the same purpose as this subchapter and which is administered by the county officers or employees shall be general fund revenue of the county. The county shall maintain records sufficient to identify the sources and amounts of that revenue.

(B) The county shall maintain records in accordance with sound accounting principles sufficient to determine on a fiscal year basis the direct costs of administering this subchapter and ordinances of cities having the same purpose as this subchapter and which are administered by the county officers or employees, including salaries and wages (excluding the Sheriff individually), travel, office supplies, postage, printing, facilities, office equipment and other properly chargeable costs.

(C) Not later than July 31 of each year, the county shall render an account to each city having an ordinance having the same purpose as this subchapter and which is administered by the county officers or employees, which account shall establish the net excess revenue or cost deficit for the preceding fiscal year and shall allocate that excess revenue, if any, or deficit, if any, to the county and any city entitled to an account proportionately as the number of permits issued for alarm systems within the corporate limits of the respective cities and the unincorporated areas of the county bears to the whole number of permits issued in the county. No allocation shall be made if the net excess revenue or deficit is less than $2,500.

(D) Distribution by the county of any excess revenue or payment of allocated deficit amounts by a city shall be made not later than September 1 of each fiscal year.

(E) *SOUND ACCOUNTING PRINCIPLES*, as used in this section, shall include, but not be limited to, practices required by the terms of any state or federal grant or regulations applicable thereto which relate to the purpose of this subchapter.
('90 Code § 7.51.070) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.713 INTERPRETATION.

This subchapter and any ordinance of a city having the same purpose as this subchapter and which is administered by the county officers or employees shall be liberally construed to effect the purpose of this subchapter and to achieve uniform interpretation and application of the respective ordinances.
('90 Code § 7.51.075) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994)

§ 15.714 ENFORCEMENT.

(A) Enforcement of this subchapter may be by civil action as provided in ORS 30.315, or by criminal prosecution, as provided in ORS 203.810 for offenses under county law.

(B) The failure or omission to comply with any section of this subchapter shall be deemed a violation and may be so prosecuted.
('90 Code § 7.51.080) (Ord. 610, passed 1989; Ord. 687, passed 1991; Ord. 796, passed 1994) Penalty, see § 15.999

MASSAGE TREATMENT

§ 15.725 TITLE; APPLICATION.

This subchapter shall be known and cited as the Massage Treatment Law, and shall apply to the unincorporated areas of the county.
('90 Code § 6.50.005) (Ord. 160, passed 1978)

§ 15.726 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

COMPENSATION. Any form of remuneration, direct or indirect, either received from the person upon whom the massage treatment is performed, or performed by, or from another.

MANUAL. Includes the use of hands, feet or any other part of the human anatomy.

MASSAGE TREATMENT. The manipulation or touching of the body of another person by pressure, friction, stroking, tapping, kneading, painting or any other manipulating or contact, direct or indirect, by manual or mechanical means or by gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and with or without lubricants or pigments, including but not limited to oils, soaps, alcohol, paint, powders, lotions, shampoos or salts.

MASSAGE TREATMENT BUSINESS. The operation of an establishment at which the practice of massage treatment is performed.

PRACTICE OF MASSAGE TREATMENT. The performance of massage treatment or the permitting of massage treatment to be performed by another on one's own body, for compensation.
('90 Code § 6.50.010) (Ord. 160, passed 1978)

§ 15.727 FINDINGS AND PURPOSE.

(A) The Board finds that there has been an increase in the county of various business enterprises in which nonlicensed persons offer to manipulate or touch the bodies of paying customers for the purpose of sexual arousal or sexual gratification. These enterprises operate under names such as massage parlor, lotion studio, rapport studio, sexy sauna and other names generally identifying the nature of the erotic services available.

(B) The Board finds that the businesses referred to in division (A) of this section present law enforcement problems by fostering prostitution, lewd displays, pornography and other criminal activity including the harboring and illegal employment of runaway minors and the purchase and sale of narcotics and other drugs.

(C) It is the purpose of this subchapter to prohibit the businesses and practices referred to in division (A) of this section in order to provide an effective means of preventing violations of and enforcing the criminal law and to protect the public health, safety and welfare by assuring that persons practicing massage treatment for compensation are doing so for legitimate reasons relating to the establishment and maintenance of good health and body conditioning and not as a subterfuge for prostitution and other criminal acts.
('90 Code § 6.50.020) (Ord. 160, passed 1978)

§ 15.728 STATE LICENSE REQUIRED; PROHIBITED CONDUCT.

(A) It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, the operation of a massage treatment business unless a massage business license has first been obtained from the state Board of Massage Technicians under ORS Chapter 687.

(B) It shall be unlawful for a person to engage in the practice of massage treatment without first having obtained a permit as a massage technician or apprentice massage technician from the state Board of Massage Technicians under ORS Chapter 687.
('90 Code § 6.50.030) (Ord. 160, passed 1978) Penalty, see § 15.999

§ 15.729 EXEMPTIONS.

This subchapter shall not apply to:

(A) Persons who practice massage relaxation treatment as an incident to another profession licensed under the authority of the state and who hold the license in good standing from the state board having authority to license that profession, or to persons working under the direction of those licensed persons in the performance of the licensed persons' professional capacity;

(B) Trainers of any amateur, semiprofessional or professional athletic team or athlete;

(C) Massage practiced at any bona fide athletic club or at any athletic department of any bona fide fraternal organization;

(D) Massage treatment practices under the auspices of the athletic department of any institution supported in whole or part by public funds; or

(E) Massage treatment practices under the auspices of the athletic department of any school, college or university.
('90 Code § 6.50.050) (Ord. 160, passed 1978)

§ 15.730 NUISANCE DECLARED; ABATEMENT.

Any premises established or maintained in violation of the provisions of this subchapter is a public nuisance subject to injunction and abatement, regardless of whether any individual has been convicted of a violation of this subchapter.
('90 Code § 6.50.070) (Ord. 160, passed 1978)
Cross-reference:
Nuisances generally, see §§ 15.225 through 15.236

§ 15.731 ADMINISTRATION AND ENFORCEMENT.

The Sheriff shall be responsible for the administration and enforcement of this subchapter.
('90 Code § 6.50.060) (Ord. 160, passed 1978)

ADULT ENTERTAINMENT

§ 15.750 TITLE.

This subchapter shall be known and cited as the Adult Bookstore and Adult Theater Law.
('90 Code § 6.65.010) (Ord. 374, passed 1983)

§ 15.751 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ADULT BOOKSTORE. An establishment having as a substantial or significant portion of its merchandise, items such as books, magazines or other publications, films or videotapes which are for sale, rent or viewing on premises, and which are distinguished or characterized by their emphasis on matters depicting specified sexual activities. Any bookstore or similar establishment which bars entry by persons 17 years old or younger is an adult bookstore.

ADULT THEATER. An establishment used primarily for presenting materials for observation by patrons therein, having as a dominant theme material distinguished or characterized by an emphasis on matters depicting specified sexual activities. Any theater which bars entry by persons 17 years old or younger is an adult theater.

SPECIFIED SEXUAL ACTIVITIES. Real or simulated acts of human sexual intercourse, masturbation, sadomasochistic abuse, or sodomy; or human genitals in a state of sexual stimulation or arousal.
('90 Code § 6.65.015) (Ord. 374, passed 1983)

§ 15.752 POLICY AND PURPOSE.

The Board has determined that it is necessary to provide for the annual licensing of adult businesses and adult theaters, based upon the findings of applicable county zoning code provisions and of this subchapter, and to provide for the administration and enforcement of this subchapter in order to protect the health, safety, and welfare of the people of the county and the use and values of their properties. This subchapter shall be liberally construed to those ends.
('90 Code § 6.65.020) (Ord. 374, passed 1983)

§ 15.753 LICENSE REQUIRED.

It shall be unlawful for any person to conduct an adult bookstore or adult theater business in unincorporated the county without a current annual license.
('90 Code § 6.65.030) (Ord. 374, passed 1983) Penalty, see § 15.999

§ 15.754 STANDARDS FOR ISSUANCE OF LICENSE.

The Sheriff shall issue an annual license upon a finding, as a result of inspection and investigation, that:

(A) An accurate and complete application has been filed, and fees paid; and

(B) That the Sheriff of the Department of Environmental Services has certified that the applicable county zoning code, Building Code, Plumbing Code and other code requirements are satisfied.
('90 Code § 6.65.035) (Ord. 374, passed 1983)
Cross-reference:
Building and Plumbing Codes, see Ch. 29

§ 15.755 DENIAL OR REVOCATION OF LICENSE.

(A) The Sheriff may initiate denial or revocation of a license upon finding that a licensee fails to meet the requirements of this subchapter or is operating in violation of this subchapter or existing laws or ordinances.

(B) Any person whose license has been denied or revoked may, after 30 days from the date of the denial or revocation, reapply upon the prepayment of an application fee in an amount set by Board resolution. That sum shall not be credited to the applicant's annual license fee.

(C) The Sheriff shall, upon finding that a violation of this subchapter has occurred, provide written notice to the licensee of the violation, and shall demand that the violation, if continuing, be corrected within 30 days from the date of the notice. The notice shall describe, with reasonable certainty, the violation and the action necessary to correct the violation.

(D) The licensee shall notify the Sheriff when corrective action under division (C) of this section has been taken. The Sheriff shall then make an inspection, if necessary.
('90 Code § 6.65.040) (Ord. 374, passed 1983)

§ 15.756 UNLICENSED BUSINESS; REMOVAL OR RELOCATION.

(A) Any adult bookstore or adult theater remaining unlicensed for an uninterrupted period of six months shall be deemed in violation of this subchapter, and shall be removed or be relocated so as to comply with the requirements of this subchapter.

(B) In the event that two or more adult businesses are close together, and all but one are required to be removed under this subchapter, the one legally established for the longer time has superior rights to remain.
('90 Code § 6.65.045) (Ord. 374, passed 1983)

§ 15.757 LICENSE FEES AND RENEWAL.

(A) The annual license fee shall be as set by Board resolution.

(B) The fee shall be due and payable upon initial license application and thereafter on the first day of April each year.

(C) The license fee shall be prorated to the full month for each full or partial month remaining until the next April first.

(D) Revenue from license fees shall be used to offset the costs of administration and enforcement of this subchapter, and for such other purposes as the Board may determine in the budget approval process.
('90 Code § 6.65.050) (Ord. 374, passed 1983)

§ 15.758 APPEALS AND HEARINGS; REVIEW.

(A) A person receiving notice of an action by the Sheriff under this subchapter may request a hearing by filing a written request for hearing with the Sheriff within 30 days of receipt of the notice. The request shall set forth reasons for the hearing and the issues to be heard.

(B) The Sheriff shall, upon receipt of request for hearing, promptly notify the Board, and the Board shall set a time and place for hearing not more than 60 days from the date of receipt of request for hearing.

(C) The Board shall give notice to the person requesting hearing as to the time and place for the hearing not less than 30 days prior to the hearing.

(D) The person requesting the hearing, and the Sheriff, may make argument, cross examine witnesses, submit testimony, rebuttal evidence and written documentation, and submit briefs on matters pertinent to the issue to be determined.

(E) All hearings shall be recorded in a manner which will allow for a written transcription to be made and all materials submitted by the person requesting hearing and the Sheriff shall be retained by the Board for a period of at least two years.

(F) The Board shall issue its order determining the question within 30 days from the date of the hearing, or any continuance not to exceed 30 days, and shall mail a copy of the order to the person requesting the hearing.

(G) Review of the action of the Board shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100; provided, however, that any aggrieved person may demand relief by writ of review.
('90 Code § 6.65.055) (Ord. 374, passed 1983)

§ 15.759 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for, nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which relate to the activities regulated by this subchapter.
('90 Code § 6.65.060) (Ord. 374, passed 1983)

§ 15.760 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff of the county shall be responsible for the administration and enforcement of this subchapter.

(B) The Sheriff may adopt rules necessary to the administration and enforcement of this subchapter.
('90 Code § 6.65.025) (Ord. 374, passed 1983)

MOTOR VEHICLES; PARKING

§ 15.800 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

BUS LOADING ZONES. The space adjacent to the curb reserved for the exclusive use of motor buses in the loading and unloading of passengers and merchandise and designated by official signs or markings.

CONSTRUCTION ZONE. The space adjacent to the curb and in immediate proximity to the premises where construction, alterations, remodeling, repairing or similar work is in progress and designated by official signs or markings.

CROSSWALK.

(1) Except as provided in division (2) below, that portion of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street or highway measured from the curbs, or, in the absence of curbs, from the edges of the traveled roadway to the property lines, or the prolongation of the lateral lines of a sidewalk, to the sidewalk on the opposite side of the street, if the prolongation would meet that sidewalk; or

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway, conforming in design to standards prescribed by the state Highway Division. Whenever marked crosswalks have been indicated, those crosswalks and no other shall be considered lawful across the roadway at that intersection.

CURB. Any raised margin along lines established by ordinance as curblines, defining the space in the street devoted to vehicular traffic.

EMERGENCY ZONE. Places designated with official signs, barricades or other markings by the Sheriff where, during emergencies or because of contingent emergencies, no parking shall be allowed.

ENTRANCE ZONE. The space adjacent to the curb in front of the entrance to any public building, school building, theater, church or firehouse and designated by official signs or markings.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curblines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

LOADING ZONE; TRUCK. The space adjacent to the curb reserved for the exclusive use of trucks actually engaged in the loading or unloading of passengers, goods, wares, merchandise or materials and designated by official signs or markings.

PARK, PARKING or ***PARKED.*** The stopping or standing of any vehicle upon any street or highway, whether that vehicle is occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers or freight, or in obedience of traffic regulations or traffic signs or signals.

PARKING AREA. Parking areas owned by or under the control of the county, including the parking area at the county Exposition Center and any other location within the county owned, held under a lease or by other interest less than fee, or otherwise under the control of the county.

ROADWAY. That portion of a publicly owned street or highway improved, designed or ordinarily used for vehicular travel.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SCHOOL BUS. Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school, but does not include vehicles commonly known and used as private passenger vehicles and not operated for compensation except in the transportation of children to or from school.

SCHOOL ZONE. The space adjacent to or in the proximity of a school building or grounds or a school crossing and designated by official signs or markings.

SIDEWALK. That portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property line intended for the use of pedestrians.

SLED. Every vehicle moving over the streets, except such vehicles as move exclusively on revolving wheels in contact with the surface of the road.

STREET or ***HIGHWAY.*** The entire width between the boundary lines of every way publicly maintained when any part of it is open to the use of the public for purposes of vehicular traffic.

TAXICAB. Every motor vehicle, except an ambulance, equipped with a taximeter which is used as a basis for determining rates for the transportation of passengers.

TAXICAB ZONE. The space adjacent to the curb reserved for the exclusive use of taxicabs and designated by official signs or markings.

TOW AWAY ZONE. The space adjacent to the curb on any street or avenue, or portion thereof, on which stopping or parking has been prohibited for specific hours of the day, or otherwise, and which is designated as a tow away zone by official signs or markings.

TRAILER. Every vehicle without motor power, designed for carrying or accommodating persons or property and drawn by a motor vehicle.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon any public street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
('90 Code § 7.10.010) (Ord. 54, passed 1972; Ord. 140, passed 1977; Ord. 457, passed 1985)

§ 15.801 COMPLIANCE REQUIRED.

It shall be unlawful for the driver of a vehicle to stop, stand or park that vehicle contrary to the parking regulations under §§ 15.802 and 15.803, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control signal.
('90 Code § 7.10.025) (Ord. 54, passed 1972)

§ 15.802 PRESCRIBED MANNER OF PARKING.

(A) In parking a vehicle on any road, it shall be placed with the righthand side parallel to the righthand curbline and not more than one foot from that curbline, provided, however, that on streets where only one-way traffic is permitted, a vehicle may be parked parallel with the curbline on either side of those streets unless otherwise posted by the Department of Environmental Services and provided, further, that the vehicle must be headed in the direction in which traffic is permitted, and that it shall be parked so as not to obstruct traffic and not more than one foot from the curb.

(B) Angle parking is prohibited except where properly designated by official signs or markings, provided, however, that angle parking of motorcycles, motor scooters or other similar two- or three-wheel vehicles is permitted if the vehicles do not extend more than an average car width from the curb.

(C) No person shall permit a vehicle in that person's charge to remain backed to the curb of any street except while engaged in actually loading or unloading the same, and then only when it is absolutely necessary for the purpose owing to the weight or size of the merchandise being handled, and in no event shall it be permissible to allow the vehicle to remain for a period greater than 20 minutes. The motive power attached to any vehicle so backed to the curb shall be turned parallel to the curb and in the direction in which the traffic is required to be moved upon the same side of the street, except that in case of a truck and trailer combination, the truck shall be removed and parked separately. All vehicles shall be parked parallel to the curb for loading or unloading and shall be subject to all rules regarding parking within the county.
('90 Code § 7.10.050) (Ord. 54, passed 1972; Ord. 457, passed 1985) Penalty, see § 15.999

§ 15.803 BUS ZONE PARKING PROHIBITED.

It is unlawful for any person to park, except for the purpose of loading or unloading passengers, in any bus, local or interurban zone on any street, road or highway within the county.
('90 Code § 7.10.075) (Ord. 54, passed 1972) Penalty, see § 15.999

§ 15.804 EMERGENCY VEHICLES EXCEPTED.

The provisions of this subchapter relating to stopping, standing or parking shall not apply to vehicles of the fire and police, authorized emergency vehicles or other apparatus when answering calls or alarms or going to or from a fire.
('90 Code § 7.10.100) (Ord. 54, passed 1972)

§ 15.805 RIGHT-OF-WAY FOR PARKING.

The motorist who first begins maneuvering a vehicle into a vacant parking space shall have a prior right-of-way to park in that space, and it is unlawful for another driver to attempt to deprive the motorist of that space by blocking the motorist's access.
('90 Code § 7.10.125) (Ord. 54, passed 1972) Penalty, see § 15.999

§ 15.806 PARKING PROHIBITED WITHOUT FIRST REMOVING KEY.

(A) It is unlawful for the owner, driver or person in charge of a motor vehicle, to park or permit the vehicle to be parked within the limits of the county without first stopping the motor, locking the ignition and removing the ignition key. If the vehicle is attended the ignition key need not be removed.

(B) Whenever a police officer finds a motor vehicle parked unattended with the ignition key in the vehicle in violation of division (A) of this section the police officer may, for purposes of safety, remove the

key from the vehicle and deliver it to the person in charge of the nearest police station, provided, however, that due notice is given to the owner indicating the key removal and place of deposit.
('90 Code § 7.10.150) (Ord. 54, passed 1972) Penalty, see § 15.999

§ 15.807 STOPPING OR PARKING PROHIBITED IN SPECIFIED PLACES.

It is unlawful for the driver of a vehicle to stop, stand or park the vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control signal, in any of the following places:

(A) Within an intersection;

(B) Within a crosswalk;

(C) Between a safety zone and the adjacent curb or within 30 feet of points of the curb immediately opposite the ends of a safety zone, unless local or traffic authorities indicate a different length by signs or markings;

(D) Within 25 feet from the intersection of curblines, or if none, then within 15 feet of the intersection of property lines at an intersection within a business or residence district;

(E) Within 30 feet upon the approach to any official flashing beacon, stop sign or traffic control signal located at the side of the roadway;

(F) Within 15 feet of the driveway entrance to any fire station;

(G) Within ten feet of a fire hydrant, with the exception of taxicabs occupying properly signed taxi zones;

(H) In front of a private driveway including the radius or ramps of the driveway;

(I) On a sidewalk or parking strip;

(J) Alongside or opposite any street, road or highway excavation or obstruction when stopping, standing or parking would obstruct traffic, unless the vehicle stopped or parked is being used in connection with the maintenance or repair of public or private utility service, above, below or upon the surface of the street or highway and the location of the vehicle is necessary in connection with the maintenance or repair;

(K) On a roadway side of any vehicle stopped or parked at the edge of a street, road or highway;

(L) At any place where official signs, curb paint or markings have been installed prohibiting standing, stopping or parking, provided, however, that driver-attended private passenger motor vehicles and taxicabs may stop for no longer than 30 seconds in the tow away zone for the sole purpose of loading or unloading passengers;

(M) Within a 25-foot radius of the intersection of the centerlines of a street, road or highway and a railway crossing;

(N) In front of the entrance or other place where mail is received of any post office or postal station, or within ten feet of a private mailbox during the hours of delivery;

(O) In any street so as to prevent the free passage of other vehicles in both directions at the same time, except on one-way streets, or so as to prevent any vehicle from turning from one street into another street;

(P) In any street, road, highway, alley, lane, sidewalk or parking strip for the storage of any vehicle in lieu of a garage or offstreet parking area;

(Q) In any street, road or highway for the purpose of displaying the vehicle for sale or exchange;

(R) In any emergency zone;

(S) In any entrance zone except to load or unload passengers for a period of time not to exceed one minute, except in any area designated as a tow away zone during the hours when stopping or parking is prohibited;

(T) In any bus loading zone, except a motor bus or taxicab actually engaged in loading or unloading passengers or merchandise for a period not exceeding two minutes. Taxicabs using any bus loading zone shall use only the entrance end of the zone and shall not use the zone between the hours of 4:30 and 6:00 p.m.;

(U) On private property without the consent of the owners of the private property;

(V) In any construction zone except by vehicles actually necessary to the construction work being carried on;

(W) On county-owned or county-operated property designated for use for motor vehicle parking by authorized county personnel only, without the consent of the county, if there is in plain view on the property a sign prohibiting public parking or restricting parking;

(X) In any street, road, highway, alley, lane or on any sidewalk, parking strip, public park property, county-owned property or county-operated property for more than 24 hours, if the vehicle is disabled or abandoned;

(Y) On either or both sides of any street adjacent to any school property if there is in plain view on that property a sign prohibiting public parking or restricting parking;

(Z) At any place in which stopping, standing or parking of vehicles would create an especially hazardous condition or cause unusual delay to traffic, if there is in plain view on the property a sign prohibiting public parking or restricting parking;

(AA) In any public park property, county-owned property or county-operated property when parking would interfere with traffic or create a hazardous situation, if there is in plain view on the property a sign prohibiting public parking or restraining parking; and

(BB) In any parking area for the purpose of displaying the vehicle for sale or offering any property for sale without a permit issued by the Sheriff as provided in § 15.810.
('90 Code § 7.10.175) (Ord. 54, passed 1972; Ord. 140, passed 1977) Penalty, see § 15.999

§ 15.808 PARKING TIME LIMIT.

It is unlawful for any person to park or stop any vehicle for a longer period than designated by official signs or other markings, placed by the Department of Environmental Services, except on Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day. Parking time limits shall be effective only between the hours of 8:00 a.m. and 6:00 p.m. unless designated "no parking at any time" or otherwise designated by official signs or markings. The aggregate of time of all stops on the same side of the street of any vehicle within a space of 200 lineal feet measured along the curbline and within intersections shall not exceed the designated time limit during any three-hour period, where one- or two-hour parking is designated, or during any two-hour period where 30-minute parking is designated.
('90 Code § 7.10.200) (Ord. 54, passed 1972) Penalty, see § 15.999

§ 15.809 PUBLIC PARKING BUSINESSES, AUTO SALES OR REPAIR BUSINESSES; PROHIBITIONS.

(A) It is unlawful for the person in charge of a public parking business or any auto sales or repair business to permit a vehicle to be parked on a street while that vehicle is in the custody of the business for the purpose of being parked, offered for sale or repaired, or for the display of advertising.

(B) If a vehicle is parked on the street while in the custody or possession of a public parking business or an auto sales or repair business for the purpose of being parked, offered for sale or repaired, it is prima facie evidence that the person in charge permitted the vehicle to be parked on the street.

(C) It is unlawful to use the public right-of-way for the storage of any object other than a vehicle without obtaining a permit from the Department of Environmental Services.

(D) For the purpose of this section, the following definitions shall apply unless the context requires a different meaning.

AUTO SALES OR REPAIR BUSINESS. A business offering new or used vehicles for sale or offering vehicle repair service.

PERSON IN CHARGE. An owner, operator or employee who is physically present and actually supervising operation of the business.

PUBLIC PARKING BUSINESS. A business offering public offstreet parking as a service.
('90 Code § 7.10.225) (Ord. 54, passed 1972) Penalty, see § 15.999

§ 15.810 SPECIAL PARKING PERMITS.

(A) The Sheriff may issue or cause to be issued without charge a special parking permit and identification card.

(B) All special parking permits issued by authority of this section shall expire on the last day of the calendar year in which issued. A new permit may be issued for the ensuing years by the Sheriff in the same manner as the original application.
('90 Code § 7.10.250) (Ord. 54, passed 1972; Ord. 140, passed 1977; Ord. 457, passed 1985)

§ 15.811 STORAGE PARKING OF HEAVY VEHICLES.

(A) It shall be unlawful for any person, owning or having control of any vehicle, trailer or sled, in excess of three-quarter-ton capacity, or with gross vehicle weight in excess of 6,000 pounds, to park or leave it standing for storage in lieu of offstreet or garage parking of that equipment, upon any street, avenue or public way in a residential area, or upon either side of any street, avenue, or public way in front of or adjacent to any residence, church, school, multiple dwelling, hospital or playground.

(B) This section shall not prohibit the lawful parking of the equipment under division (A) of this section upon any street, avenue or public way for the actual loading or unloading of goods, wares or merchandise, provided, however, that loading and unloading, as used in this section, shall be limited to the actual time consumed in that operation. The parking of any equipment under authority of this section shall in no event be within 25 feet of the intersection of curblines, or if there is no curb, then within 15 feet of the intersection of property lines at any intersection.
('90 Code § 7.10.275) (Ord. 54, passed 1972) Penalty, see § 15.999

§ 15.812 CIVIL EMERGENCIES; PARKING PROHIBITED.

It is unlawful for any person, firm, corporation or association to park, cause to be parked, or allow to remain parked, a vehicle during any declared civil emergency in those areas of evacuation where parking has been prohibited by the Sheriff.
('90 Code § 7.10.300) (Ord. 54, passed 1972) Penalty, see § 15.999

Cross-reference:

Emergency area regulations, see §§ 15.325 through 15.330

§ 15.813 IMPOUNDMENT.

(A) When any motor vehicle is found standing or parked in or upon any street, road or highway or parking area of the county within the jurisdiction of this subchapter in violation of, and contrary to, any of the provisions of this subchapter applicable to stopping, standing or parking of vehicles, the owner or person entitled to possession of the motor vehicle may be issued a citation and the vehicle removed or caused to be removed by the Sheriff and held at the expense of the owner or person entitled to possession. If a vehicle is so removed and held, the provisions relating to notice to owner, appraisal of value and owner reclaiming vehicle shall be followed in ORS Chapter 819. If the vehicle is not redeemed within 30 days it will be disposed of as prescribed in ORS Chapter 19.

(B) The Sheriff may authorize another police agency to remove and hold motor vehicles that are found in violation of this subchapter, and may also define the geographical area within which the agency may order such removal. If a vehicle is so removed and held by another police agency, that agency shall provide notice to the owner of the removal in accordance with the procedures of the removing agency.
('90 Code § 7.10.325) (Ord. 54, passed 1972; Ord. 140, passed 1977; Ord. 457, passed 1985; Ord. 815, passed 1995; Ord. 878, passed 1997)

§ 15.814 SIGNS; CURB MARKINGS.

The Sheriff is authorized to install or cause to be installed proper signs, curb marking or other designations reasonably necessary to carry out any of the provisions of this subchapter.
('90 Code § 7.10.350) (Ord. 54, passed 1972; Ord. 457, passed 1985)

OFF-ROAD VEHICLES

§ 15.850 TITLE; APPLICATION.

This subchapter shall be known and cited as the county Off-Road Vehicle Law, and shall apply to the unincorporated areas of the county.
('90 Code § 10.50.005) (Ord. 93, passed 1975)

§ 15.851 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

NONROAD AREA. Any area that is not a road, or a road which is closed to off-road vehicles and posted as such but does not include areas commonly held open to vehicular use, such as parking lots and racetracks.

OFF-ROAD VEHICLE. Every self-propelled motor vehicle designed or capable of traversing on or over natural terrain, including but not limited to snowmobiles, minibikes, motorcycles, four-wheel drive trucks, pickups, all-terrain vehicles, jeeps, half-tracks and helicopters, but does not include, unless used for purposes prohibited by this subchapter, implements of husbandry or military, fire, emergency or law enforcement vehicles used for legal purposes.

ROAD. Every public way, thoroughfare, road, street or easement within the county used or intended for use by the general public for vehicular travel.
('90 Code § 10.50.010) (Ord. 93, passed 1975)

§ 15.852 POLICY.

The Board has determined that off-road vehicles can provide appropriate, useful and energy-efficient alternatives to automobiles when properly operated, but that the unregulated use of off-road vehicles is a

nuisance to the people of the county and causes damage to and deterioration of the environment, detrimental to the health, safety and welfare of the people.
('90 Code § 10.50.020) (Ord. 93, passed 1975)

§ 15.853 OPERATION OF OFF-ROAD VEHICLES.

It shall be unlawful for any person to operate an off-road vehicle on any non-road area which the operator does not own, unless:

(A) The operator possesses written permission from the owner, contract purchaser or lessee of the nonroad area;

(B) The operator possesses written evidence of membership in a club or association to which the owner, contract purchaser or lessee of the nonroad area has given written permission and a copy of which has been filed with the Sheriff;

(C) The owner, contract purchaser or lessee of the nonroad area has designated the non-road area as open for recreational purposes in accordance with applicable state law by filing consent and other information necessary to identify the area with the Sheriff; or

(D) The owner, contract purchaser or lessee has designated the nonroad area as being open to off-road vehicle use by posting notice thereof in a form and manner prescribed by the Sheriff.
('90 Code § 10.50.040) (Ord. 93, passed 1975) Penalty, see § 15.999

§ 15.854 FALSIFICATION PROHIBITED.

It shall be unlawful for any person to:

(A) Falsify the written permission required by § 15.853(A);

(B) Falsify the evidence of club or association membership or the written permission required by § 15.853(B);

(C) Falsify the filing or consent required by § 15.853(C); or

(D) Post the notice or remove the posted notice required by § 15.853(D) without the consent of the owner, contract purchaser or lessee.
('90 Code § 10.50.060) (Ord. 93, passed 1975) Penalty, see § 15.999

§ 15.855 ARREST; IMPOUNDMENT.

(A) (1) The Sheriff may arrest the person operating an off-road vehicle when the person is found in the act of operating an off-road vehicle in violation of this subchapter, except, however, the Sheriff may issue a citation in accordance with ORS 133.070 in lieu of exercising custody of the operator.

(2) The Sheriff may seize any off-road vehicle incident to arrest or citation of the operator if the Sheriff has reasonable grounds to believe that the vehicle was operated with willful or reckless disregard of the likelihood that the operation would cause substantial damage to the off-road area, and that substantial damage has been caused by that operation.

(3) The Sheriff shall retain possession of the vehicle, if seized, and, in any event, proceed at once against the person arrested in the appropriate court of the county.

(B) (1) If the person arrested is the legal owner of a seized vehicle, it shall be returned to the owner upon execution of a good and valid bond, or cash deposit, with sureties acceptable to the Sheriff, in a sum equal to the average value of the vehicle as stated in a list of average values of known vehicle categories, prepared by the Sheriff and approved by the Board, which bond or cash deposit shall be conditioned upon the return of the vehicle to the Sheriff upon disposition of the judgment of the court.

(2) If the person arrested is convicted of a violation of this subchapter and is the owner of the off-road vehicle, the vehicle shall be subject to disposition as provided in § 15.856.

(C) If the person arrested is not the legal owner of a seized vehicle, the Sheriff shall make all reasonable efforts to identify the name and address of the owner. If the Sheriff is able to determine the name and address of the owner, the Sheriff shall notify the owner by registered or certified mail of the seizure and inform the owner of the owner's rights under division (D) of this section.

(D) (1) Any person notified under division (C) of this section, any owner of the vehicle or any other person asserting a claim of lawful possession of a seized vehicle, may, prior to trial, move the court for return of the vehicle or obtain possession of the vehicle by posting bond or cash in accordance with division (B) of this section.

(2) The court shall, upon receipt of motion for return of vehicle, hold a hearing to determine if the owner, or other person asserting a lawful claim to the vehicle, had any knowledge that the vehicle would be used in violation of this subchapter.

(3) If the court determines by clear and convincing evidence that the movant had knowledge that the person arrested would use the vehicle in violation of this subchapter, the vehicle shall not be returned to the movant except in accordance with division (B) of this section, and the vehicle shall be subject to forfeiture as specified in § 15.856.

(E) If the person arrested is not convicted of a violation of this subchapter and the Sheriff is in possession of the vehicle, it shall immediately be returned to the owner.
('90 Code § 10.50.080) (Ord. 93, passed 1975)

§ 15.856 DISPOSITION OF VEHICLE.

(A) (1) The court, upon conviction of the person arrested, may order a return of a seized vehicle to the owner after payment of all expenses, or it may, upon motion made by the district attorney, order forfeiture and sale of the vehicle at public auction by the Sheriff.

(2) In determining whether to order a forfeiture and sale of the vehicle, the court shall consider the amount of damage caused by the use of the vehicle, and the willfulness or recklessness of the violation.

(B) If the court orders a forfeiture and sale of the vehicle, the Sheriff, after deducting an amount set by Board resolution for administrative expenses plus all other expenses incurred, shall pay, to the extent of the remaining proceeds, all liens of record, ratably and according to their priorities. Any balance remaining shall be paid into the general fund of the county.

(C) If no person claims the vehicle, the Sheriff shall advertise the sale of the vehicle and the description thereof in accordance with the requirements of this chapter relating to disposition of unclaimed property. Proceeds from the sale of the property, after deducting the expenses and costs, shall be paid into the funds of the county to be used to develop a system of off-road vehicle trails or facilities. The Board may authorize the Sheriff to submit a bid for purchase at the public sale if the vehicle could be used for county purposes. Unsold property may be destroyed.
('90 Code § 10.50.100) (Ord. 93, passed 1975)

§ 15.857 OFF-ROAD TRAIL SYSTEM.

The Board may develop, maintain and regulate facilities for the enjoyment of off-road vehicles and shall conspicuously post those areas as off-road vehicle areas.
('90 Code § 10.50.120) (Ord. 93, passed 1975)

§ 15.858 OTHER LAWS APPLY.

This subchapter shall not be a substitute for or eliminate the necessity of conformity with any and all state laws and rules, and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this subchapter.
('90 Code § 10.50.140) (Ord. 93, passed 1975)

§ 15.999 PENALTY.

(A) *General penalty*. Any person who violates any provision of this chapter for which no other specific penalty is provided shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment in the county jail for not more than one year, or both. No greater penalty shall be imposed, however, than the penalty prescribed by any state statute for the same act or omission. Each day such violation continues shall constitute a separate offense. This penalty is in addition to and not in lieu of other procedures and remedies provided by this chapter or state law.

(B) *Curfew violations*. Any minor violating any of the provisions of §§ 15.050 or 15.051 may be apprehended and taken into custody as provided in ORS 419.760, and may be subjected to further proceedings as provided therein. ('90 Code § 7.45.900) (Ord. 1963, passed 1963)

CHAPTER 17: JUVENILE AND ADULT JUSTICE

Section

General Provisions

17.001 Department established; functions
17.002 Alternative Corrections Program; fee

Domestic Relations

17.100 Marriage licenses; fees
17.101 Domestic relations suit; filing fee
17.102 Parenting Education Program; fee for participation

Juvenile Detention Homes

17.300 Policy

Statutory reference:

Correctional facilities, see ORS, Ch. 169
Juvenile Code, see ORS, Ch. 419A
Juvenile Code: Dependency, see ORS, Ch. 419B
Juvenile Code: Delinquency, see ORS, Ch. 419C
Sheriffs, see ORS, Ch. 206

GENERAL PROVISIONS

§ 17.001 DEPARTMENT ESTABLISHED; FUNCTIONS.

The Department of Juvenile and Adult Community Justice (department) is established. It shall:

(A) Respond to juvenile delinquency and neglect in a manner that promotes public safety, reduces juvenile recidivism and holds youth and families accountable;

(B) Enhance public safety and promote the positive change of adult offenders in the community through integrated supervisory, rehabilitative and enforcement strategies;

(C) Plan, develop, administer and evaluate sanctions and services programs along separate but related continuums of graduated interventions for juvenile and adult offenders;

(D) Work in partnership with the community to carry out effective crime prevention, crime control and crime reduction initiatives;

(E) In cooperation with the district attorney and Sheriff, assist the Board in developing and implementing countywide criminal justice policies with effectively balanced crime prevention, early intervention and effective corrections efforts.

('90 Code § 2.30.300) (Ord. 64, passed 1972; Ord. 73, passed 1973; Ord. 102, passed 1975; Ord. 309, passed 1982; Ord. 332, passed 1982; Ord. 363, passed 1983; Ord. 371, passed 1983; Ord. 446, passed 1984; Ord. 523, passed 1986; Ord. 535, passed 1986; Ord. 620, passed 1989; Ord. 650, passed 1990; Ord. 707, passed 1991; Ord. 739, passed 1992; Ord. 754, passed 1993; Ord. 872, passed 1997)

§ 17.002 ALTERNATIVE CORRECTIONS PROGRAM; FEE.

The department shall charge a fee in an amount set by Board resolution to any offender sentenced to a community service sentence of 40 hours or more. In the case of documented indigency, the fee shall be waived. All fees collected under this section shall be used to fund services provided by the alternative community service program. An offender under obligation to repay may petition the sentencing court

for waiver of the fee under conditions of manifest hardship. No offender may be held in contempt for failure to pay if the default is not attributable to intentional refusal to pay.
('90 Code § 5.10.450) (Ord. 418, passed 1984)

DOMESTIC RELATIONS

§ 17.100 MARRIAGE LICENSES; FEES.

A fee in an amount set by Board resolution shall be charged for the issuance of a marriage license, in addition to that fee prescribed by ORS 205.320(7). Fees collected pursuant to this section shall be used to finance the cost of conciliation services provided under ORS §§ 107.510 to 107.610.
('90 Code § 5.10.430) (Ord. 255, passed 1980)

§ 17.101 DOMESTIC RELATIONS SUIT; FILING FEE.

(A) The county portion of the fee for filing a domestic relations suit in the circuit court of the county shall be as set by Board resolution. Total receipts from these filings shall be utilized to fund conciliation and mediation services provided by the family court services division.

(B) A child custody evaluation case opening fee in an amount set by Board resolution shall be assessed in domestic relations suits in the circuit court of the county involving minor children, at the time court ordered custody investigation is instituted. Both parties to the suit are responsible for payment of the fee. The fee may be assessed as costs at the time of the decree.

(C) A child custody evaluation case opening fee in an amount set by Board resolution shall be paid at the time of filing a motion for modification of child custody or visitation, and shall be paid by the moving party.

(D) Total receipts from the case opening fee shall be utilized to fund the family court services division. Persons eligible for legal aid counsel may have the custody evaluation case opening fee deferred, upon application to and approval of the director of family court services, or that person's designee.

(E) The director of family court services shall establish written criteria to be used in reviewing application for fee deferral, consistent with local court rules regarding deferral of filing fees.
('90 Code § 5.10.435) (Ord. 411, passed 1984; Ord. 574, passed 1988; Ord. 651, passed 1990; Ord. 766, passed 1993; Ord. 883, passed 1997)

§ 17.102 PARENTING EDUCATION PROGRAM; FEE FOR PARTICIPATION.

(A) A fee in an amount set by Board resolution shall be collected from each parent participating in the parenting education program of the department. Fees collected pursuant to this section shall be used to finance the cost of department programs.

(B) The department shall establish policy and procedures for persons who are in financial difficulty to apply for a deferral of the fee, a waiver of the fee, or both.
('90 Code § 5.10.445) (Ord. 871, passed 1997)

JUVENILE DETENTION FACILITIES

§ 17.300 POLICY.

The juvenile detention facility provides detention for pre-adjudicated offenders, and secure detention and treatment for post-adjudicated offenders. The department may lease detention space to the state and other counties.
('90 Code § 7.95.100) (Ord. 516, passed 1986)

CHAPTER 19: LIBRARY

Section

County Library

19.001 Multnomah County Public Library established
19.002 Library board
19.003 Board organization
19.004 Library board mission
19.005 Library board general powers
19.006 Acceptance of gifts for library purposes
19.007 Internal administrative policies and procedures
19.008 Prohibited acts

19.999 Penalty

Statutory reference:

Public libraries, see ORS 357.400

COUNTY LIBRARY

§ 19.001 MULTNOMAH COUNTY PUBLIC LIBRARY ESTABLISHED.

(A) The Multnomah County Library is established under the provisions of ORS 357.400 to 357.621.

(B) The county will operate the library under ORS 357.410(1) and as a department. The library director shall be a Director under all applicable county administrative regulations.

(C) The public library shall be financed by general fund monies, library operating revenues, grants, gifts, donations and bequests received and designated to be used for library purposes, and any tax levies that may be authorized by the electors.

(D) The public library shall be the public agency responsible for providing and making fully accessible to all residents in the county library and information services suitable to persons of all ages.
('90 Code § 2.30.900) (Ord. 649, passed 1990)

§ 19.002 LIBRARY BOARD.

(A) The library board is hereby created. The board shall consist of 15 members to be appointed by the Chair subject to approval by the Board.

(B) The term of office of the board members shall be four years and their terms shall commence on July 1 in the year of their appointment. Of the first 15 board members appointed, three members shall initially hold office for one year, four for two years, four for three years and four for four years. The Chair shall designate the initial individual terms. At the expiration of the term of any members of the library board, the Chair shall appoint a new member or may reappoint a member for the term of four years, subject to Board approval. If a vacancy occurs during a term of office, the Chair shall appoint a new member for the unexpired term, subject to Board approval. No person shall hold appointment as a member for more than two full consecutive terms, but any person may be appointed again to the library board after an interval of one year.

(C) Members of the library board shall receive no compensation for their services, but may be reimbursed for expenses incurred in the performance of their duties.
('90 Code § 2.30.901) (Ord. 649, passed 1990)

Cross-reference:

Advisory boards and commissions, see Charter § 3.70

§ 19.003 BOARD ORGANIZATION.

(A) The library board shall elect a Chairperson from its members.

(B) The director shall keep the record of the library board's actions.

(C) The library board may establish and amend rules for its procedure consistent with the laws of the state and with the charter, ordinances, resolutions, and regulations of the county.

(D) The board shall meet at least six times each year and at such other times as it decides.
('90 Code § 2.30.902) (Ord. 649, passed 1990)

§ 19.004 LIBRARY BOARD MISSION.

The library board shall promote excellence in library services and be advocates for a strong and visible library system. To that end, the board shall actively respond to the community's changing needs through comprehensive and visionary planning and uphold the principles of intellectual freedom and accessible library services for all residents.
('90 Code § 2.30.903) (Ord. 649, passed 1990)

§ 19.005 LIBRARY BOARD GENERAL POWERS.

The library board shall be an advisory board and shall have no executive or administrative powers or authority. This chapter shall not deprive elected or appointed officials of the county of any power they may have under the laws of the state or the charter. The library board shall have powers and duties as follows:

(A) The library board, in coordination with the director, shall undertake long range planning for library services and make appropriate recommendations to the Board. Long range plans shall address service needs, budget priorities, stable public funding, and capital improvements, and shall be consistent with county, regional, state and national goals for libraries.

(B) The library board shall serve as the department's citizen budget advisory committee.

(C) The library board shall actively seek library funding for materials, capital improvements and services which county funding, alone, cannot provide. Furthermore, the library board shall facilitate the donation of real or personal property or funds to the library under § 19.006 of this chapter and make recommendations for the acceptance, use, or expenditure of any real or personal property or funds so donated.

(D) The library board shall, upon the request of the director, respond to concerns about items that are a part of the library's collection of books and other library materials as well as concerns about the library's materials selection policy. The director has authority and responsibility for the library's collection of books and other library materials.

(E) The library board may advise the county Chair in the selection of a director.

(F) The library board may, at the request of the director, review library policies and programs for which public comment is appropriate.

(G) The library board shall review the annual report of the director to the state library and to the Board.
('90 Code § 2.30.904) (Ord. 649, passed 1990)

§ 19.006 ACCEPTANCE OF GIFTS FOR LIBRARY PURPOSES.

Gifts of any real or personal property or funds donated to the library and accepted by the Board shall be administered in accordance with each gift's terms, if any, and all property or funds shall be held in the name of the county.
('90 Code § 2.30.905) (Ord. 649, passed 1990)

§ 19.007 INTERNAL ADMINISTRATIVE POLICIES AND PROCEDURES.

The library shall operate in conformance with county administrative procedures including those pertaining to the following:

(A) Personnel, including recruitment, selection, classification and pay for library personnel;

(B) Receipt, disbursement, and accounting for monies;

(C) Maintenance of general books, cost accounting records, and other financial documents;

(D) Budget administration; and

(E) Operation and maintenance of equipment and buildings.
('90 Code § 2.30.906) (Ord. 649, passed 1990)

§ 19.008 PROHIBITED ACTS.

It shall be unlawful for any person to wilfully or maliciously detain any library materials belonging to the library for 30 days after notice in writing from the director that the library material is past due.
('90 Code § 2.30.907) (Ord. 649, passed 1990) Penalty, see § 19.999

§ 19.999 PENALTY.

Violation for wilful detention of library materials is punishable upon conviction by a fine of not less than $25 nor more than $250. Conviction and payment of the fine shall constitute payment for library material, nor shall a person convicted under this chapter be relieved of any obligation to return the material to the library.
('90 Code § 2.30.908) (Ord. 649, passed 1990)

CHAPTER 21: HEALTH

Section

General Provisions

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21.711 Enforcement of fines and costs

21.999 Penalty

Statutory reference:

Disease control, see ORS, Ch. 433
Food services, see ORS, Ch. 624
Health care facilities, see ORS, Ch. 441
Medical assistance, see ORS, Ch. 414
Public health, see ORS, Ch. 431

GENERAL PROVISIONS

§ 21.001 DEPARTMENT ESTABLISHED; FUNCTIONS.

The department of health is established. It shall perform the following functions:

(A) Provide the services and perform the duties imposed by state law on the local health officials;

(B) Provide community health care;

(C) Provide environmental health services, including vector control; and

(D) Provide health-related services prescribed by state law.

('90 Code § 2.30.105) (Ord. 708, passed 1992)

§ 21.002 FEES.

Except where otherwise provided by law, fee schedules for services provided by the department of health and for recovery of the expenses of the department in performing its responsibilities shall be established by the director of the department. The fees of the department for services provided to the public shall be based generally on the cost of providing the services, and shall be established with the objective of effecting maximum possible availability and delivery of services to those in need of them. The fee schedules shall, where appropriate, be based upon ability to pay. The director shall revise schedules as appropriate and shall provide copies of the revised schedules to the Chair.

('90 Code § 5.10.360) (Ord. 105, passed 1975)

STATE LAW DELEGATION

§ 21.100 POLICY AND PURPOSE; DELEGATION OF ENFORCEMENT TO COUNTY.

Pursuant to the Board Order of October 9, 1975, the county has requested the administrator of the state Health Division to delegate responsibility to the county for certain licensing and other functions which Oregon Laws, Chapter 790, 1975, authorizes the administrator to delegate to the state's counties. Under state laws, any person aggrieved by a denial, suspension or revocation of a license or certificate in connection with the delegated functions, or otherwise coming within the statutory conditions for the existence of a contested case with respect to the delegated functions, is entitled to a hearing and other administrative procedures which meet the requirement of ORS Chapter 183. The purpose of this subchapter is to establish administrative rules for hearings and other procedures in the county in connection with the functions delegated to the county under Oregon Laws, Chapter 790, 1975.
('90 Code § 8.35.100) (Ord. 118, passed 1975)

§ 21.101 ADOPTION OF RULES OF ADMINISTRATIVE PROCEDURE.

Except as otherwise provided in this subchapter, the Board adopts Division III of the Attorney General's Model Rules of Procedure Under the Administrative Procedures Act, dated October 22, 1975, together with any provisions of ORS Chapter 183 which are not embodied in the model rules and which set forth procedural requirements for contested cases, as the county's rules for hearings and other administrative procedures in connection with contested cases arising from the county's performance of the functions delegated to the county under Oregon Laws, Chapter 790, 1975.
('90 Code § 8.35.200) (Ord. 118, passed 1975)

§ 21.102 JUDICIAL REVIEW; FORM OF NOTICE.

(A) The notice of parties of their right to judicial review of final orders under Rule 30.70(2) of the model rules adopted under § 21.102 shall read as follows:

> NOTICE: You are entitled to judicial review of this Order in the manner provided by applicable laws of the state.

(B) At such time as the legislature or the courts of this state determine what judicial procedures are applicable to review of final orders of the Board under Oregon Laws, Chapter 790, 1975, the foregoing form of notice shall be replaced by a notice which specifies the applicable procedures for judicial review.
('90 Code § 8.35.400) (Ord. 118, passed 1975)

SWIMMING POOLS

§ 21.150 SWIMMING POOL LICENSE FEE.

For the services of the department in connection with the inspection of public swimming pools, public spa pools, and bathhouses as those terms are defined in ORS 448.005, the department shall collect a license fee from each applicant based on the number of swimming or spa pools located at the same address, and operated by the same licensee. Annual license fees shall be as set by Board resolution.
('90 Code § 5.10.340) (Ord. 157, passed 1977; Ord. 176, passed 1978; Ord. 259, passed 1980; Ord. 353, passed 1982; Ord. 514, passed 1986; Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 892, passed 1997)

§ 21.151 SWIMMING POOL AND SPA PLAN REVIEW FEES.

For the services of the department in connection with the review of plans for the construction of public swimming pools, public spa pools and bathhouses as those terms are defined in ORS 448.005, the

department shall collect a fee in an amount set by Board resolution.
('90 Code § 5.10.341) (Ord. 568, passed 1987; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994; Ord. 828, passed 1995; Ord. 892, passed 1997)

COMMUNITY HEALTH COUNCIL

§ 21.300 COUNCIL ESTABLISHED.

There is created the County Community Health Council.
('90 Code § 8.60.100) (Ord. 230, passed 1980)

§ 21.301 COUNCIL BYLAWS.

The powers, duties, membership, terms of office of members, provisions as to meetings and conduct of business of and by the council shall be in accordance with its adopted bylaws.
('90 Code § 8.60.200) (Ord. 230, passed 1980)

EMERGENCY MEDICAL SERVICES

§ 21.400 TITLE.

This subchapter may be cited as the Emergency Medical Services and Ambulance Law.
('90 Code § 6.33.005) (Ord. 816, passed 1995)

§ 21.401 PURPOSE.

(A) The Board has determined that it is necessary to regulate providers of emergency medical services and ambulance services to assure that the citizens of the county receive prompt, effective, efficient, coordinated, and consistently high levels of prehospital care before and during transport to a medical facility.

(B) Ordinance 789, passed June 9, 1994, adopts the ambulance service plan for the county. This subchapter provides for the implementation of that plan.
('90 Code § 6.33.010) (Ord. 816, passed 1995)

§ 21.402 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ADMINISTRATOR. The administrator of the office of emergency medical services of the health department of the county.

APPLICANT. A provider whose rates are regulated pursuant to this subchapter and who requests or applies for a rate adjustment.

ADVANCED LIFE SUPPORT (ALS). Those medical services that may be provided within the scope of practice of a person certified as an EMT-Paramedic as defined in ORS Chapter 823.

AMBULANCE. Any privately or publicly owned motor vehicle, aircraft, or water craft that is regularly provided or offered to be provided for the timely or emergency transportation of persons suffering from illness, injury, or disability. All vehicles capable of providing transportation to the sick or injured and staffed with personnel trained to care for such individuals and equipped with supplies and equipment necessary for the care of the sick or injured shall be considered an ambulance.

AMBULANCE SERVICE AREA (ASA). A geographic area that is served by one ambulance service provider and may include all or a portion of county, or all or portions of two or more contiguous counties.

AMBULANCE SERVICE PLAN. A written document that outlines a process for establishing a county emergency medical services system. A plan addresses the need for and coordination of ambulance

services by establishing ambulance service areas for the entire county and by meeting the other requirements of the Oregon Administrative Rules (OAR).

AMBULANCE SERVICES. The transportation of an ill, injured, or disabled individual in an ambulance and, in connection therewith, the administration of prehospital medical or emergency care, if necessary.

APPEALS HEARINGS OFFICER or *HEARINGS OFFICER.* The person or persons designated to conduct contested case hearings concerning actions in licensing and rate regulation under this subchapter.

BASIC LIFE SUPPORT (BLS). Those medical services that may be provided within the scope of practice of a person certified as an EMT-Basic as defined in ORS Chapter 823.

BUREAU OF EMERGENCY COMMUNICATIONS (BOEC). The Bureau within the City of Portland that maintains the 911 telephone answering system and the dispatch service for police, fire and EMS for the county.

CHORAL. The on-line computer link among all the receiving hospitals within the county that provides information on the status of those hospitals for receiving ambulance transports.

CONTRACT COMPLIANCE AND RATE REGULATION COMMITTEE (CRC). The Committee appointed by the Board to review contract compliance and to review and recommend rate adjustments.

CRITICAL CARE TRANSPORT (CCT). An ambulance providing transport between medical care facilities and providing care at the level of a hospital critical care unit.

DIVISION or *STATE.* The EMS Section, Oregon Health Division, department of Human Resources.

DO BUSINESS IN THE COUNTY. To provide emergency ambulance service, non-emergency ambulance service, or other emergency medical service in the county, provided however, that transporting patients from outside the county to a destination within the county only shall not be considered doing business within the county.

EFFECTIVE PROVISION OF AMBULANCE SERVICES. Ambulance services provided in compliance with the county ambulance service plan provisions for boundaries, coordination, and system elements.

EFFICIENT PROVISION OF AMBULANCE SERVICES. Effective ambulance services provided in compliance with the county ambulance service plan provisions for provider selection.

EIGHT HUNDRED MHZ (800 MHZ). A radio system used for emergency communications throughout the county.

EMERGENCY. A non-hospital occurrence or situation involving illness, injury, or disability requiring immediate medical services, wherein delay of such services is likely to aggravate the condition and endanger personal health or safety.

EMERGENCY MEDICAL DISPATCHER (EMD). A person who is certified as an EMD by the Board on public safety standards and training as defined in ORS 401.735.

EMERGENCY MEDICAL SERVICES (EMS). Those prehospital functions and services whose purpose is to prepare for and respond to medical emergencies, including rescue, first responder services, ambulance services, patient care, communications, system evaluation, and public education.

EMERGENCY MEDICAL SERVICES MEDICAL director (EMSMD) A physician employed by the county to provide medical direction to the EMS system and medical supervision to EMTs providing emergency medical services within the county.

EMERGENCY MEDICAL TECHNICIAN (EMT). A person certified at one of the levels defined in ORS Chapter 823.

EMPLOYEE. An employee, agent, or EMT employed by a licensee.

FIRST RESPONDER. An organization that provides fast response to emergency medical calls by EMTs before the arrival of an ambulance. These organizations are currently fire departments throughout the county.

HEAR. An identified radio frequency used for ambulance to hospital and hospital to hospital radio communications.

INTERVENOR. A person whom the Contract Review Committee (CRC) or the Hearings Officer has allowed to participate in a proceeding subject to the rights provided by the rate adjustment rules in this subchapter.

LICENSE. A non-transferable, non-assignable permit, personal to the person or corporation to whom it is issued, issued by the Administrator, authorizing the person or corporation to do business in the county.

LICENSEE. A person or corporation possessing a valid license under this subchapter.

MASS CASUALTY INCIDENT (MCI). An emergency medical incident with enough injured or ill persons to meet the requirements for scene and medical management as defined in the EMS Administrative Rules, MCI Plan.

MEDICAL ADVISORY BOARD (MAB) The Advisory Committee appointed by the Board as defined in this subchapter.

MEDICAL RESOURCE HOSPITAL (MRH) That hospital, contracted to MCEMS, to provide on-line medical control to EMTs.

MULTNOMAH COUNTY EMS (MCEMS). That organizational division within the department responsible for the administration and coordination of the EMS system in the county.

NON-EMERGENCY AMBULANCE. An ambulance, licensed by the county under this subchapter, that provides routine medical transportation to patients who do not require a emergency response.

OFFICER. A Hearings Officer to whom the county has delegated authority to conduct hearings pursuant to the rate adjustment rules in this subchapter.

ON-LINE MEDICAL CONTROL. Medical direction and advice given to an EMT, by a physician, through radio or telephone as a supplement to the written patient care protocols.

OPERATING EXPENSES or *ALLOWABLE COSTS.* Those costs attributed to the provision of emergency medical services provided under the exclusive provider agreements required by this subchapter.

PARTY. A provider whose rates are regulated pursuant to this subchapter and any person admitted as an intervenor pursuant to the rate adjustment rules of this subchapter.

PROVIDER. Any public, private, or volunteer entity providing emergency ambulance or first response to medical emergencies.

PROVIDER SELECTION PROCESS. The process established by the county for selection of an exclusive emergency ambulance service provider.

PUBLIC SAFETY ANSWERING POINT (PSAP) or *911.* The organization that answers calls for police, fire, and emergency medical assistance that are received from persons dialing 911. This service is provided by BOEC.

URBAN GROWTH BOUNDARY (UGB). The planning boundary developed by METRO that delineates the areas considered "urban" and "rural" for purposes of this subchapter.

USER FEES, EMSMD FEES, or *FRANCHISE FEES.* The fees established under the this code, payable by the provider to the county, for system administration, regulation, and medical supervision.
('90 Code §§ 6.33.020, 6.33.505) (Ord. 816, passed 1995)

§ 21.403 LICENSE REQUIRED.

It shall be unlawful for any person to do business in the county without a license issued under this subchapter.
('90 Code § 6.33.030) (Ord. 816, passed 1995)
Penalty, see § 21.999

§ 21.404 EXEMPTIONS.

This subchapter shall not apply to the following:

(A) Vehicles owned or operated by the federal government;

(B) Vehicles being used to render temporary assistance in the case of public catastrophe or emergency with which the licensees and other defined units are unable to cope;

(C) Vehicles operated solely on private property, the incidental crossing of public streets or roads not withstanding; or

(D) Persons operating vehicles under divisions (A) through (C) of this section.
('90 Code § 6.33.035) (Ord. 816, passed 1995)

§ 21.405 LICENSE TYPES.

(A) There shall be three types of ambulance licenses available in the county:

(1) Advanced Life Support (ALS);

(2) Basic Life Support (BLS); and

(3) Air Ambulance.

(B) Marine ambulances shall be considered as either (A)(1) or (A)(2) above.

(C) In addition, the EMSMD may designate a license type for Critical Care Transport (CCT).

(D) MCEMS shall promulgate rules for each type of ambulance that specify staffing, equipment, supplies, use, operating policies, and other pertinent requirements for doing business in the county.

(E) The authorization to respond to emergency medical calls is not a condition of license and such authorization must be separately obtained under § 21.425.
('90 Code § 6.33.040) (Ord. 816, passed 1995)
Penalty, see § 21.999

§ 21.406 AMBULANCE STAFFING.

(A) ALS ambulances responding to emergency calls shall be staffed with two EMT-Paramedics.

(B) ALS ambulances transferring patients from hospitals to other facilities may be staffed at the minimum with one EMT-Paramedic and one EMT-Basic.

(C) The EMSMD shall specify staffing requirements for critical care ambulances if such a license is required under this subchapter.

(D) All other ambulances will be staffed with EMT-Basic or EMT-Intermediates whose orders and level of service will be specified by the EMSMD and which will allow for the medically appropriate transportation of patients with the most cost effective staffing.
('90 Code § 6.33.043) (Ord. 816, passed 1995)
Penalty, see § 21.999

§ 21.407 LICENSE REQUIREMENTS.

To obtain a license and remain a licensee, each applicant must:

(A) Meet all federal, state, and county requirements for the operation of an ambulance;

(B) Comply with the application and license renewal requirements under this subchapter;

(C) Maintain vehicles and equipment in accordance with standards, requirements and provisions of state statutes and rules and in accordance with the provisions of this subchapter;

(D) Maintain, and make available as requested by MCEMS, a patient care record for each ambulance call, dispatch records, both written and recorded, for all calls and requests for service, and other information pursuant to this subchapter;

(E) Prohibit from practice, any EMT or EMT trainee who suffers suspension, revocation, or termination of certificate by the state Health Division, or who is not currently approved for practice by the EMSMD;

(F) Identify and mark ambulances in accordance with this subchapter;

(G) Meet all other applicable requirements under this subchapter; and

(H) Pay to county all fees required under this subchapter.
('90 Code § 6.33.045) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.408 APPLICATION FOR LICENSE.

(A) Application for a license issued under this subchapter shall be made on forms provided by MCEMS and containing information found necessary to achieve the purposes of this subchapter. This will include a schedule of rates to be charged by the licensee.

(B) A license fee in an amount set by Board resolution for each ambulance operated by the applicant shall accompany the license application. No application will be considered without the accompanying fee.

(C) No additional fee shall be charged for an ambulance that is replacing a currently licensed ambulance during the license period.

(D) The fee shall cover the annual license period and shall not be prorated for less than the period.

(E) Fees under this section shall not apply to governmental providers of EMS (unless under contract to the county), rural fire protection districts, or volunteer ambulance companies.
('90 Code § 6.33.050) (Ord. 816, passed 1995)

§ 21.409 INSPECTION.

(A) Within 30 days of the receipt of an application for a new license, MCEMS shall inspect and test each ambulance for which a license is requested.

(B) Subsequent inspections of licensed ambulances may be made from time to time to determine continued compliance with this subchapter.
('90 Code § 6.33.055) (Ord. 816, passed 1995)

§ 21.410 ISSUANCE OF LICENSE.

The administrator shall issue a license upon finding the following:

(A) An accurate and complete application has been submitted and all fees, if required, have been paid;

(B) Insurance policies as required by state and county are in force;

(C) Ambulances, equipment and personnel meet all requirements of state law and this subchapter;

(D) Personnel staffing the ambulance are approved for practice by the EMSMD;

(E) All county rules and regulations governing the operation of an ambulance service and other applicable rules and regulations have been met; and

(F) A schedule of charges for service have been filed with MCEMS.
('90 Code § 6.33.060) (Ord. 816, passed 1995)

§ 21.411 DENIAL OF APPLICATION; LICENSE REVOCATION.

(A) In the event that an applicant's request for a license is denied, or revoked or suspended, the administrator shall provide the applicant or licensee with a written notice of the action, clearly stating the facts and conclusions and ordinance or rule provision upon which the action is based. This applicant must be advised of the right to appeal and the time within which such appeal must be filed. The applicant may then appeal under § 21.443 or file an amended application without an additional fee.

(B) Fees submitted with an application that is denied are not refundable.

(C) Any person whose license has been denied or revoked may, after one year from the date of denial or revocation, reapply for a license upon submittal of a new application and the required fees under § 21.408.
('90 Code § 6.33.065) (Ord. 816, passed 1995)

§ 21.412 LICENSE TERM.

The initial license shall be for a period to terminate with the conclusion of the fiscal year of the county. Renewed licenses shall be for a period of 12 months.
('90 Code § 6.33.070) (Ord. 816, passed 1995)

§ 21.413 RENEWAL.

(A) Renewal applications shall be made no later than 30 days prior to the license expiration date.

(B) Fees for the renewal of a license shall be the same as the fees for an initial license and shall be paid at the time of the renewal application.

(C) Where a licensee has made a timely application for renewal, such license shall not be deemed to expire, despite any stated expiration date on the license, until a formal order granting or denying the license has been issued.
('90 Code § 6.33.075) (Ord. 816, passed 1995)

§ 21.414 NOTIFICATION OF CHANGE IN CIRCUMSTANCES.

If the status of a licensee under this subchapter changes in regard to the number of ambulances owned or operated, the sale or discontinuance of the business, or anything substantially changing the information contained in the initial application, the licensee must immediately inform MCEMS of such changes.
('90 Code § 6.33.080) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.415 AMBULANCE IDENTIFICATION; ADVERTISEMENT.

(A) All ambulances shall meet all identification requirements specified in state and federal statute.

(B) Ambulances under contract to the county for emergency medical response shall be identified as specified in the contract and shall not display any telephone number other than "911."

(C) Ambulances not under contract for emergency medical response may not display words such as "paramedic unit," "medic unit," "advanced life support," "emergency," or other words indicating a level or type of medical care provided.

(D) Ambulances not under contract to the county may not advertise on the ambulance or in any other way that they provide emergency medical response.
('90 Code § 6.33.085) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.416 PROHIBITED ACTIVITIES.

No applicant or licensee, applicant or licensee's employee, or any other person doing business under this subchapter shall do any of the following:

(A) Make a false statement of a material fact, or omit disclosure of a material fact, in an application for a license;

(B) Monitor or intercept police, fire, medical, or other radio dispatch or transmission with the intent of providing service or for profit or gain;

(C) Solicit information as to accident locations by payment of any form of gratuity;

(D) Charge for services not performed, make duplicate charges for the same service, or charge rates exceeding those on file with MCEMS;

(E) Perform the services of an EMT unless authorized by state law, this subchapter, and the requirements adopted thereunder;

(F) Respond by ambulance to an emergency call unless so authorized by BOEC or under a provision of this subchapter;

(G) Falsify, deface, or obliterate a license or certificate required under this subchapter;

(H) Transport an emergency patient in any other vehicle other than a licensed ambulance and to any other facility other than a hospital emergency department unless otherwise allowed for in this subchapter; or

(I) Receive on-line medical advice from any other source other than Medical Resource Hospital (MRH) unless communications with MRH are unavailable.
('90 Code § 6.33.090) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.417 MEDICAL DIRECTION AND SUPERVISION.

(A) There shall be established, as an employee of the department, appointed by the health officer, the position of emergency medical service medical director (EMSMD).

(B) The EMSMD shall serve as the physician supervisor for all EMTs in the employ of licensed ambulance services within the county and working within the county. In addition, the EMSMD may serve as the physician supervisor for EMTs employed by EMS first responder agencies, by agreement with the county.

(C) Duties of the EMSMD include, but are not limited to, the following:

(1) Approval for practice for all EMTs. Approval shall be provided to each EMT and his or her employer, in writing, and a record kept by MCEMS;

(2) Creation of policies for limiting the practice of EMTs when necessary, including adequate due process protections for the effected EMT;

(3) Setting the standards for training and continuing education for EMTs and EMDs;

(4) Implementation of a quality management program designed to provide for the continuous improvement of patient care and other aspects of the EMS system;

(5) Promulgation of standards of patient care, consistent with the ambulance service area plan and including, but not limited to, the following:

(a) Dispatch and pre-arrival protocols;

(b) Transport triage criteria and protocols;

(c) Specific requirements for EMTs working within the county;

(d) Approved equipment, supplies, and drugs;

(e) Patient care protocols;

(f) Medical criteria for response times;

(g) Patient transfer criteria; and

(h) Critical care inter-facility transport criteria.

(D) (1) The EMSMD may appoint assistants to help carry out the duties assigned to the medical director. The EMSMD retains the sole responsibility for all assigned duties.

(2) Funding for assistants to the EMSMD, if any, shall be recommended by the administrator.

(E) The EMSMD may appoint committees or individuals as deemed necessary, to provide advice regarding the duties of the medical director.

(F) The EMSMD may not implement protocols nor take other actions that would change the patient care standards specifically identified in the ambulance service area plan or in this subchapter without approval by the Board.

(G) The administrator is authorized to collect fees from employers of EMTs to off-set the cost to county for the EMSMD and any assistants. These fees shall be limited to the salary and benefits of the EMSMD and agents. Fees will change only with compensation changes.
('90 Code § 6.33.100) (Ord. 816, passed 1995)

§ 21.418 ON-LINE MEDICAL CONTROL.

(A) On-line medical control shall be provided by a Medical Resource Hospital (MRH).

(B) Standards for the MRH shall be determined by the EMSMD and implemented through a performance agreement between MRH and MCEMS.

(C) Compensation for MRH services shall be recommended by the administrator and approved by the Board.
('90 Code § 6.33.105) (Ord. 816, passed 1995)

§ 21.419 EMS MEDICAL ADVISORY BOARD.

(A) There is created an EMS medical advisory board (MAB) which shall consist of the following persons:

(1) Three physicians, interested and involved in prehospital emergency care, one each recommended from the following organizations: the county Medical Society, the American College of Emergency Physicians, and MRH;

(2) One physician, recommended by the county health officer as a member-at-large;

(3) One nurse, specializing in emergency care, and recommended by the Emergency Nurses Association; and

(4) Two paramedics recommended by organizations representing paramedics.

(B) Members shall be appointed by the Board for terms of three years.

(C) Responsibilities shall include the following:

(1) Provision of advice to the EMSMD and MCEMS; and

(2) An annual report to the Board on the effectiveness of prehospital medical care provided by the EMS system to the citizens of the county.

(D) The chair of the MAB shall be appointed by the EMS medical director.

(E) Members shall be reimbursed for expenses authorized by the administrator.
('90 Code § 6.33.110) (Ord. 816, passed 1995)

§ 21.420 TRAINING AND EDUCATION.

(A) All training and continuing education for EMTs will be provided through a coordinated educational program approved by the EMSMD.

(B) The program will offer education and training opportunities which include state recertification requirements, issues identified as a result of the quality improvement process, new, state-of-the-art information, changes in patient care protocols, and other pertinent topics.

(C) Current and additional training and education resources from the public and private sectors will be used to provide these activities to EMTs. They will be coordinated to insure their maximum use and availability.

(D) Particular attention will be paid to the training needs of the volunteer rural first responders and system resources will be made available to assist in meeting these needs.

(E) Training and education standards, EMT attendance requirements, and county specific education and training requirements shall be the responsibility of the EMSMD.

(F) There may be appointed, an education coordinator to assist the EMSMD. This position may be employed by the county or provided under contract to the county. This position may be funded from EMS system revenues as specified by the administrator.
('90 Code § 6.33.115) (Ord. 816, passed 1995)

§ 21.421 EMS PROGRAM OFFICE; ADMINISTRATION.

(A) There shall be within the department an EMS Program Office (MCEMS), which is responsible for the implementation, regulation, coordination, and enforcement of this subchapter, the ambulance service plan and other EMS planning, and the administration of the emergency ambulance service contract.

(B) The responsibilities in division (A) of this section may be accomplished through the promulgation of administrative rules by the administrator, in accordance with the county's administrative rule process. All such rules that pertain to patient care, EMT practice, ambulance equipment and supplies, and other medical matters shall be approved by the EMSMD prior to implementation.

(C) The administrator is delegated the authority for the enforcement of this subchapter including the requirement for the production of relevant records, documents, and recordings. The administrator shall have the authority to subpoena such records when necessary to insure their production.

(D) The administrator may hold hearings on matters of compliance with this subchapter and subpoena and require attendance of witnesses at such hearings.

(E) The administrator may appoint committees or individuals, as deemed necessary, to provide advice to the administrator.
('90 Code § 6.33.200) (Ord. 816, passed 1995)

§ 21.422 SYSTEM QUALITY MANAGEMENT AND IMPROVEMENT.

(A) All licensees are required as a condition of license, and all other EMS providers are encouraged, to participate in the quality management program for the EMS system. Participation includes:

(1) Providing patient care data, dispatch and call determination data, EMT training and education information, vehicle maintenance information, EMT rosters, patient or other complaints, and other data and information determined by MCEMS to be necessary for the quality management process. This data is to be provided in a form and frequency to be determined by MCEMS;

(2) Serving on review bodies, committees, problem solving groups, as may be required;

(3) Implementing system changes and modifications in a timely manner; and

(4) Maintaining an internal quality improvement process and providing information on the problems and outcomes to the system program.

(B) All data, information, and proceedings associated with the quality management program that could identify patients, specific events, patient medical conditions, locations, or other possible identifiers shall be considered confidential and protected from discovery in accordance with ORS Chapter 1079.

(C) There shall be a quality management committee, chaired by the EMSMD, and responsible for the development, implementation, and on-going monitoring of the quality management and improvement process.
('90 Code § 6.33.300) (Ord. 816, passed 1995)

§ 21.423 EMS FIRST RESPONSE.

(A) MCEMS shall enter into agreements with all agencies providing medical first response. These agencies are fire departments and districts, police or Sheriff, or other public emergency responders.

(B) The agreements shall include, but are not limited to:

(1) Types of call response and dispatch protocols;

(2) Response time goals;

(3) Level of personnel training and staffing;

(4) Educational and training support provided by MCEMS;

(5) Equipment, supply, or other support from MCEMS;

(6) Quality management participation; and

(7) Medical supervision through the EMSMD.
('90 Code § 6.33.400) (Ord. 816, passed 1995)

§ 21.424 EMERGENCY AMBULANCE SERVICE AREA.

(A) All of the county comprises a single ambulance service area served by a provider selected by the Board and operating under contract or intergovernmental agreement with the county which specifies the conditions of service.

(B) In order to insure the most effective medical response with the resources available MCEMS will:

(1) Enter into an exclusive emergency ambulance service contract with a qualified ambulance service provider;

(2) Designate response time zones within the ambulance service area. Each zone will have a response time requirement for each level of service;

(3) Incorporate the zones designated in (B)(2) into the contract for emergency ambulance service; and

(4) Through intergovernmental agreements specifying the details of service, allow EMS agencies from other jurisdictions to provide service into the county when such an action will allow for better service to the citizens in the identified areas of the county. MCEMS may likewise allow contracted agencies to serve similar areas in other jurisdictions.
('90 Code § 6.33.450) (Ord. 816, passed 1995)

§ 21.425 EXCLUSIVE EMERGENCY AMBULANCE SERVICE CONTRACT.

(A) The exclusive provider of emergency ambulance service for the single ASA in the county shall be selected through a competitive proposal process by the Board.

(B) MCEMS shall prepare the necessary request for proposals specifying all criteria necessary for the preparation of a proposal and the selection of a provider.

(C) The contract for emergency ambulance service shall specify all performance and operational criteria not otherwise stated in this subchapter. The selected emergency ambulance provider shall enter into an agreement with the county that includes, but is not limited to, the following:

(1) The qualifications required to provide service under the agreement;

(2) Performance criteria such as response time requirements, area coverage, staffing;

(3) Charges for service;

(4) Information and data reporting requirements;

(5) The relationship between the parties to the agreement;

(6) Specifics of participation in the EMS system quality improvement program;

(7) Medical supervision requirements;

(8) Remedies for failure to meet the tenants of the agreement; and

(9) Fee requirements for medical supervision and program management and support.

(D) The contract shall have specific requirements that insure appropriate policies effecting the employees of the provider. These requirements include the following:

(1) A workforce diversity plan that meets all federal, state, and local standards. The plan must include a specific process for the recruitment and retention of women and minority EMTs;

(2) Agreement to provide employment consideration and priority to paramedics displaced from employment with the providers in the county prior to the contract implementation to the extent that positions are available;

(3) Providing an employee assistance program (EAP) to all EMTs. The EAP programs in force by the county and the City of Portland shall serve as the standard for evaluation of offered programs.
('90 Code § 6.33.455) (Ord. 816, passed 1995)

§ 21.426 REASSIGNMENT.

(A) Should the contracted provider resign its interest in the ASA or should the county terminate the agreement, the county shall then select a replacement provider(s) by a method recommended by the administrator and approved by the Board.

(B) At the end of the term of the contract the Board may exercise its option of renewing the contract or seeking a replacement provider.
('90 Code § 6.33.460) (Ord. 816, passed 1995)

§ 21.427 AMBULANCE CHARGES FOR SERVICE.

(A) All licensees under this subchapter shall provide MCEMS with a schedule of the charges (fees) for services they provide. This schedule must be current at all times.

(B) No charge for service may exceed that which is listed on the most recent schedule on file at MCEMS.

(C) Charges for services provided under contract to the county shall be limited to those specified in the contract and may not be changed, adjusted or modified except through the rate adjustment proceeding.
('90 Code § 6.33.500) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.428 CONTRACT COMPLIANCE AND RATE REGULATION COMMITTEE.

(A) There shall be a Contract Compliance and Rate Regulation Committee (CRC), appointed by the Board, upon the recommendation of the EMS administrator.

(B) The CRC shall be comprised of the following members:

(1) A person with expertise in ambulance operations;

(2) An attorney with health care expertise;

(3) A person in the business of health care administration or health care financing;

(4) An accountant;

(5) An EMS provider not regulated by this subchapter;

(6) A citizen residing within the county;

(7) A representative from the City of Gresham; and

(8) A representative from the City of Portland.

(C) The CRC will meet and review the response times and other performance requirements of the ambulance service contract and make recommendations to the EMS administrator. The CRC will review all requests for rate adjustments and make recommendations to the EMS administrator.

(D) The initial rates incorporated in the exclusive ambulance service contract shall be verified and recommended to the Board by the RFP Evaluation Committee, acting as the Contract Compliance and Rate Regulation Committee for purposes of this initial review.

(E) The CRC shall develop criteria to be used for rate adjustment decisions, to be approved by the Board.
('90 Code § 6.33.510) (Ord. 816, passed 1995; Ord. 836, passed 1995)

§ 21.429 RATE ADJUSTMENT PROCEDURE.

(A) A request for a rate adjustment may be made by a licensee whose rates are regulated by this subchapter or by MCEMS. This process is for contested rate increases or unusual rate increase requests. The exclusive ambulance contract rate adjustment formula is not subject to this section.

(B) The rate adjustment procedure is a contested hearings process with an appointed hearings officer that allows all interested, qualified parties to participate. The order of the hearings officer is forwarded to the CRC for final determination of the rates to be charged.

(C) There are a variety of persons who may participate in rate proceedings conducted by the county. They include the contracted provider of emergency ambulance service, other providers of ambulance service, third party payers for ambulance service, MCEMS, employees of ambulance companies, and users of emergency ambulance service.

(D) The regulated provider shall submit to the rate hearing a reviewed financial statement prepared by a certified public accountant or, if a public provider, by the appropriate financial officer.

(E) Financial statements shall be in a form and include accounts as required by MCEMS. The statements shall show only allowable costs as specified in the ambulance service contract and also shall show total costs for all accounts that require an allocation to determine allowable costs including the application of the allocation methodology to the total costs.

(F) Any person who resides or does business in the county may petition to intervene in any proceeding conducted under this section. The petition to intervene shall contain the following information:

(1) The name and address of the petitioner;

(2) The name and address of the attorney, if any, representing the petitioner;

(3) If the petitioner is an organization, the number of members in and the purposes of the organization;

(4) The nature and extent of the petitioner's interest in the proceeding;

(5) The issues the petitioner intends to raise at the proceeding; and

(6) Any special knowledge or expertise of the petitioner which would assist the county in resolving the issues in the proceeding.

(G) If the hearings officer finds the petitioner has sufficient interest not otherwise represented in the proceeding and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding, the hearings officer shall grant the petition.

(H) The hearings officer shall set the time and place for a hearing on the proposals for a rate adjustment. The hearing shall be held within 15 days of the time fixed by the administrator for receipt of the schedules of proposed rates. Notice shall be served on all parties at least 30 days prior to the date of the hearing, in person, by mail, or by any other reasonable means of delivery.
('90 Code § 6.33.515) (Ord. 816, passed 1995)

§ 21.430 PRODUCTION OF DOCUMENTS.

MCEMS may request of any party the production of documents relevant to the determination of any issue currently a part of a rate setting proceeding under this subchapter. The request shall set forth the general relevance and reasonable scope of the documents sought. A party may return with any requested documents a form protective order providing for the confidentiality of those documents. The form protective order shall be provided by MCEMS with each and every request for documents. Should a party refuse to produce the requested documents, the administrator may issue a subpoena for the documents.
('90 Code § 6.33.515) (Ord. 816, passed 1995)

§ 21.431 ORDERS.

The hearings officer shall issue a written recommended order, no later than 30 days after the date on which the hearing was closed, which shall be based solely on the record made at the hearing and shall forward that order to the CRC.
('90 Code § 6.33.520) (Ord. 816, passed 1995)

§ 21.432 CRC RATE REVIEW PROCEDURES.

(A) The CRC shall schedule a review of the recommended order, which shall be held no more than 30 days after service of the recommended order.

(B) CRC review of final recommended orders shall be confined to the record of the proceeding below, which shall include the following:

(1) All materials, submitted by any party and received by the hearings officer;

(2) All materials submitted by staff to the hearings officer;

(3) The transcript of the hearing below; and

(4) The findings and conclusions of the hearings officer.

(C) The CRC may allow oral or written argument by the parties.

(D) Parties shall limit their argument to the CRC to issues regarding an error of law or fact in the order which is essential to the decision and which the party raised in exceptions filed under these rules.

(E) The CRC may affirm, reverse, remand, or modify the decision of the hearings officer.

(F) The CRC shall prepare a decision which shall include written findings of fact and conclusions, based upon the record. The CRC shall serve the decision upon all parties to the hearing.

(G) Unless appealed to the Board within the time specified, the decision of the CRC shall be final and nonappealable.
('90 Code § 6.33.525) (Ord. 816, passed 1995)

§ 21.433 APPEALS TO THE BOARD.

(A) Within ten days from the date a decision of the CRC is served, a party may file an appeal with the Board.

(B) The appeal to the Board shall specify the following:

(1) The portion of the challenged order which the appellant contends is erroneous or incomplete;

(2) The portion of the record, laws, or rules relied upon to support the appeal;

(3) The change in the order which the Board is requested to make;

(C) The Board may grant an application for an appeal if the applicant shows that there is an error of law or fact in the order which is essential to the decision and which the party appealing raised in exceptions filed under these rules.

(D) The Board may affirm, reverse, remand, or modify the decision of the CRC.

(E) The Board's decision shall become final at the close of business on the 10th day after service of the decision on the parties.
('90 Code § 6.33.530) (Ord. 816, passed 1995)

§ 21.434 CRC CONTRACT COMPLIANCE REVIEW PROCEDURES.

(A) The CRC shall meet, at least annually, to review the performance, as specified in the contract, of the contractor for emergency ambulance service.

(B) Data and information necessary for this review shall be provided by the contractor, BOEC, MCEMS, and others, as requested by the CRC.

(C) The CRC will review the performance of the contractor and make recommendations to the EMS administrator as to the contract compliance of the contractor.
('90 Code § 6.33.535) (Ord. 816, passed 1995)

§ 21.435 AMBULANCE DISPATCH.

(A) Dispatch for contracted ambulances shall be provided by the City of Portland, Bureau of Emergency Communications (BOEC).

(B) Dispatch requirements and performance standards, medical triage protocols, medical information requirements (pre-arrival instructions), and data requirements shall be specified in an intergovernmental agreement between BOEC and the county. The medical protocols and medical information requirements specified in that agreement shall be promulgated by the EMSMD.

(C) MCEMS, in conjunction with BOEC and the ambulance contractor, shall determine the necessary information to be supplied by the contractor to insure the optimal operation of the ambulance dispatch and require the provider to supply this information in the form and manner designated. This information shall include ambulance deployment schedules and "move up" criteria and locations (system status plan).

(D) All licensees receiving requests for ambulance services through their business telephone or by any other means other than BOEC, shall, using the triage guide, approved by MCEMS and employed at BOEC, determine if the call meets the emergency dispatch requirements. If the call meets these requirements, that call information is to be transferred to 911 for dispatch. Licensees are prohibited from dispatching an ambulance to a call that meets emergency dispatch criteria.

(E) Ambulances, when responding to emergency calls, shall inform BOEC of their status for response; immediately notifying BOEC of any change from a previous status. The record of this information, along with the time of each notification, shall be kept at BOEC and shall comprise the official record for purposes of contract monitoring and compliance.
('90 Code § 6.33.600) (Ord. 816, passed 1995)

§ 21.436 CODE-3 OR PRIORITY 1 CALLS.

(A) ***CODE 3*** or ***PRIORITY 1*** means driving an emergency vehicle with the aid of warning lights and sirens.

(B) Ambulances may respond to a call Code-3 only when dispatched by BOEC.

(C) Ambulances are prohibited from responding to a hospital or other facility, for the purpose of initiating a nonpatient call (e.g. pick up of a transport team), Code-3.

(D) Any ambulance use of Code-3 driving other than to respond to an emergency call dispatched by BOEC, deliver a patient to a hospital, or to deliver a

transplant organ to a hospital shall be reviewed by MCEMS for appropriate use of Code-3 driving. ***APPROPRIATE*** is defined as responding to save the life of a patient.
('90 Code § 6.33.625) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.437 COMMUNICATIONS.

(A) Each ambulance shall be equipped with radios or other communication equipment as specified by MCEMS.

(B) All ambulances will be equipped, at a minimum, with a radio that allows communication with their dispatch center and the receiving hospitals.

(C) Each receiving hospital and MRH will communicate with ambulances on radio equipment specified by MCEMS.

(D) It shall be the responsibility of each licensee to purchase, install and maintain such equipment. The county shall not be responsible for any cost associated with this equipment.

(E) The policies for the use of such equipment, the security of the equipment, and system access requirements shall be promulgated by MCEMS in conjunction with the City of Portland and other parties involved in radio system operations.
('90 Code § 6.33.650) (Ord. 816, passed 1995) Penalty, see § 21.999

§ 21.438 HOSPITAL AVAILABILITY; AMBULANCE DIVERSION.

(A) Information regarding the ability of hospitals to receive ambulance transported patients shall be provided to ambulance units, by BOEC, using the CHORAL system.

(1) Each receiving hospital wishing to change its receiving status from time to time shall be equipped with the necessary computer and other requirements for participation in the CHORAL system. Hospitals not participating in the CHORAL system shall be considered available for ambulance transports at all times.

(2) Ambulance companies may have CHORAL equipment for purposes of monitoring the system. The BOEC CHORAL computer information shall be the official information for the CHORAL system.

(B) Ambulances may be diverted from an intended hospital destination based only on the information provided by the CHORAL system. In the event of a failure of the CHORAL system, other means of communication, as authorized by the administrator, may be used to convey the hospital status.

(C) Nothing in this subchapter is intended to supersede any state or federal laws or regulations regarding ambulance diversion or patient destination.
('90 Code § 6.33.655) (Ord. 816, passed 1995)

§ 21.439 MASS CASUALTY INCIDENTS (MCI).

(A) The MCI plan, as attached to the EMS administrative rules, shall serve as the guide for the response of first responders and ambulances and the care and transportation of persons, when the number of persons meets the criteria for implementation of the plan. This plan shall be reviewed from time to time by the EMSMD and modified when necessary to insure that current standards of care are being met.

(B) It is the intent that the MCI plan will be developed and maintained on a regional basis.

(C) Any licensed ambulance may be required to respond to a mass casualty incident. Those ambulances not under contract to the county will be used only at the request of the EMS administrator or by EMS approved protocol.
('90 Code § 6.33.700) (Ord. 816, passed 1995)

§ 21.440 SPECIAL RESPONSES.

(A) Emergency medical response to certain calls may require specialized equipment and specially trained personnel. These calls include, but are not limited to, hazardous material calls, search and rescue, extrication, trench, dive, and high angle rescue, and support for law enforcement response teams. These specialized responses are the responsibility of the fire first responders, and in the case of search and rescue, the Sheriff.

(B) Response by specialized units of the ambulance providers shall be only at the direction of the responding provider in division (A) above, through BOEC dispatch.
('90 Code § 6.33.750) (Ord. 816, passed 1995)

§ 21.441 VIOLATIONS.

(A) The administrator shall, upon finding that a violation of this subchapter or applicable federal, state, municipal, or county laws, ordinances, rules, or standards and requirements affecting emergency medical services has occurred, provide written notice to the licensee, and shall demand that if correctable, the violation be corrected within not more than 30 days from the date of notice, or, subject to the authority of the administrator, to immediately suspend or revoke a license under § 21.443 of this subchapter.

(B) In the event of a notice under division (A) of this section:

(1) The licensee shall notify MCEMS when corrective action, if required, has been taken.

(2) If a licensee fails to take required corrective action in the time required, the licensee may be fined or the license may be revoked or suspended, subject to appeal under § 21.442.

(3) Notice shall be in writing. Mailed notices shall be given to the last known address of the licensee and shall be considered given at the date of mailing.
('90 Code § 6.33.095) (Ord. 816, passed 1995)

§ 21.442 APPEALS.

(A) A person receiving a notice of denial, refusal to renew, suspension, or revocation of license, or a violation as provided in this subchapter, may request a hearing by an appeals hearings officer by filing a written request with the administrator within ten days of the date of the notice, setting forth reasons for the hearing and the issues to be heard.

(B) The administrator shall, upon receipt of a timely request, notify the hearings officer who will set a time and place for the hearing not more than 30 days from the date of the receipt of the request for a hearing and notify the parties.

(C) The hearing shall be conducted by the hearings officer in accordance with the most recently published Attorney General's Model Rules of Procedure.

(D) The hearings officer shall issue a final order within 30 days of the termination of the hearing.

(E) An appeal of the final order, may be filed within ten days of the date of the order, with the clerk of the Board, who shall schedule a hearing before the Board and notify the parties.

(F) The Board may confirm, alter, or revoke the order of the hearings officer and the action of the Board shall be considered final.

(G) A licensee who is unsuccessful in an appeal to a hearings officer or in any subsequent appeal to the Board, shall reimburse the county for the fee paid to the hearings officer.
('90 Code § 6.33.098) (Ord. 816, passed 1995)

§ 21.443 EFFECT OF FILING A HEARING REQUEST.

Filing of a hearing request shall abate any further proceedings by the administrator. In any case where the EMS medical director or the county health officer finds a serious danger to the public health or safety, the administrator may suspend or refuse to renew a license without a hearing. The effected licensee receiving such a notice may request a hearing with

the Board, within 30 days of the notice, without a hearing under § 21.442, and the initial notice may be confirmed, altered or revoked by the Board.
('90 Code § 6.33.099) (Ord. 816, passed 1995)

FOOD SERVICES

§ 21.600 DEFINITIONS.

For the purpose of this subchapter, the following definition shall apply unless the context requires a different meaning.

FOOD HANDLER. Any person involved in the preparation or service of food in an establishment in the county which is subject to ORS Chapter 624. This includes, but is not limited to, dishwashers, wait staff and bus persons.
('90 Code § 8.30.010) (Ord. 124, passed 1976; Ord. 869, passed 1996)
Statutory reference:
Food service facilities, see ORS, Ch. 624

§ 21.601 FOOD HANDLER'S CERTIFICATE REQUIRED.

(A) No owner of a public eating place shall continue to employ a food handler after 30 days from the date of hire without the food handler having a valid food handler's certificate.

(B) No person shall perform work as a food handler without having procured a food handler's certificate within the first 30 days of employment.

(C) All employers shall post all food handler certificates or a photocopy of any certificate provided they have seen the original certificate, in one central location for review by the department.
('90 Code § 8.30.050) (Ord. 124, passed 1976; Ord. 152, passed 1977; Ord. 869, passed 1996) Penalty, see § 21.999

§ 21.602 IMMEDIATE POSSESSION OF CERTIFICATE REQUIRED.

A food handler shall have the food handler's certificate on his person or available on the premises where the food handler performs work at all times while working.
('90 Code § 8.30.100) (Ord. 124, passed 1976) Penalty, see § 21.999

§ 21.603 FOOD HANDLER'S CERTIFICATE; COURSE OF STUDY.

(A) A food handler's certificate shall be issued by the department to any person who has attended and satisfactorily completed a course in food handling which has been reviewed and approved by the department pursuant to the criteria set forth in division (B) of this section.

(B) Food handler training shall include, but not be limited to, the following:

(1) Principles of foodborne illnesses and their transmission;

(2) Personal hygiene and handwashing;

(3) Cross contamination;

(4) Safe food sources and wholesomeness of food;

(5) Proper procedures for cooking, cooling, reheating, holding and storing food;

(6) Dish and utensil washing;

(7) Rodent and insect control; and

(8) Injury and accident prevention.

(C) A restaurant may offer a training program to its food handlers if the program has been reviewed and approved by the state Health Division or department.
('90 Code § 8.30.150) (Ord. 124, passed 1976; Ord. 152, passed 1977; Ord. 869, passed 1996)

§ 21.604 FORM OF CERTIFICATE.

A food handler's certificate shall be in such form as shall be prescribed by the health officer.
('90 Code § 8.30.200) (Ord. 124, passed 1976)

§ 21.605 CERTIFICATE FEES.

(A) All food handlers trained under § 21.603 shall pay the department a fee in an amount set by Board resolution for the issuance of an original food handler's certificate.

(B) All other food handlers shall pay the department a fee in an amount set by Board resolution for the issuance of an original food handler's certificate.

(C) All food handlers shall pay the department a fee in an amount set by Board resolution for the issuance of a replacement certificate.
('90 Code § 8.30.250) (Ord. 124, passed 1976; Ord. 152, passed 1977; Ord. 726, passed 1992; Ord. 828, passed 1995; Ord. 869, passed 1996; Ord. 892, passed 1997)

§ 21.606 TERM OF FOOD HANDLER'S CERTIFICATE.

A food handler's certificate shall expire three years from the date of issuance.
('90 Code § 8.30.300) (Ord. 124, passed 1976; Ord. 152, passed 1977)

§ 21.607 COMPULSORY PHYSICAL EXAMINATION.

(A) The health officer, or any person duly designated by the health officer, may require any person who is required to have a food handler's certificate, and who there is reasonable cause to believe is infected with any pathogen which is medically associated with foodborne human illness, to obtain a physical examination and to report the result to the department.

(B) If an examination is required under division (A) of this section, a food handler's certificate shall not be issued to the applicant unless the examination shows no evidence of the presence of any pathogens which are medically associated with foodborne human illness.

(C) If a physical examination is ordered under division (A) of this section for any person to whom there has been issued a food handler's certificate, the certificate shall be suspended until the person has furnished the report of the examination which shows no evidence of the presence of any pathogens which are medically associated with foodborne human illness.
('90 Code § 8.30.350) (Ord. 124, passed 1976; Ord. 869, passed 1996)

§ 21.608 FALSE STATEMENTS PROHIBITED.

An applicant for a food handler's certificate shall be subject to ORS 162.085.
('90 Code § 8.30.400) (Ord. 124, passed 1976)

§ 21.609 PROHIBITIONS.

(A) It shall be unlawful for any person having a food handler's certificate to give or loan the certificate to any other person or to allow any other person to use or possess the certificate.

(B) It shall be unlawful for any person, in obtaining or using a food handler's certificate, to use a fictitious or false name or impersonate any other person.

(C) It shall be unlawful for any person to use, accept or possess any food handler's certificate which has been issued to another person or to state, represent or hold out that the person has obtained a certificate when that is not a fact.

(D) It shall be unlawful for any person to refuse to surrender on demand by the health officer, or any person duly designated by the health officer, a license suspended under § 21.607.
('90 Code § 8.30.450) (Ord. 124, passed 1976) Penalty, see § 21.999

§ 21.610 FOOD SERVICE LICENSE FEE.

For the services of the department in connection with issuance of food service licenses, the department shall collect a fee from every applicant, at the time of application. The fees shall be in amounts set by Board resolution.
('90 Code § 5.10.320) (Ord. 157, passed 1977; Ord. 176, passed 1978; Ord. 196, passed 1979; Ord. 255, passed 1980; Ord. 353, passed 1982; Ord. 439, passed 1984; Ord. 514, passed 1986; Ord. 568, passed 1987; Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994; Ord. 828, passed 1995; Ord. 869, passed 1996; Ord. 892, passed 1997)

§ 21.611 FOOD SERVICE PLAN REVIEW.

For the services of the department in connection with the review of plans for the construction of food service facilities, as these terms are defined in ORS 624, the department shall collect fees as set by Board resolution.
('90 Code § 5.10.321) (Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994; Ord. 869, passed 1996; Ord. 892, passed 1997)

§ 21.612 PAYMENT OF LICENSE FEES, REINSPECTION FEES; DELINQUENCY.

(A) Licenses issued under this subchapter terminate and are renewable on December 31 of each year. The renewal license fees imposed under this subchapter shall be paid or postmarked on or before midnight of January 31 of the current license year, to the department.

(B) Except as provided in division (C) of this section, to any license fee not paid as required in subsections (A), (D) and (K) of this section, there shall be added a penalty of 50% of such license or increased frequency inspection fees.

(C) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid compliance, the penalty provided by divisions (B) and (I) of this section shall be waived.

(D) When a license fee is due at any other time of the year, other than January 31, the license fee shall be payable to the department within 30 days of application. If the license fee is not paid as provided in this division, then division (B) of this section shall apply.

(E) The license fee for a seasonal facility, which operates six or fewer consecutive months, shall be payable within 30 days of the first day of operation for the current year. If the fee is not paid as provided in this division, then division (B) of this section will apply.

(F) One-half of the license fee shall be refunded if an establishment closes or changes ownership within the first two months of the year or within any two-month period of ownership, and the application for a refund is made, in writing, within the same two-month period.

(G) The license fee for a temporary restaurant operating on an intermittent basis at the same specific location in a grouping of less than six shall be as set by Board resolution.

(H) The application and license fee for any temporary restaurant shall be received in the environmental health office by noon two working days before the event begins.

(I) Except as provided in division (C) and for benevolent organizations as defined in ORS 624.015, for any temporary restaurant license not applied and paid for as required in division (H) of this section, there shall be added a late processing fee in an amount set by Board resolution.

(J) Benevolent organizations are exempt from any temporary restaurant license or inspection related fees.

(K) For the services of the department in providing an increased frequency inspection as mandated under ORS 624.085 and OAR 333-157-0027, the department shall collect a fee for each additional inspection in an amount set by Board resolution. Reinspections for the sole purpose of checking the number of food handler cards shall not be subject to this fee.

(L) The department may charge a relocation fee in lieu of a full fee under certain circumstances such as, but not limited to, no change in business name, ownership, menu served or type of equipment used. The relocation fee shall be in an amount set by Board resolution. Plan review fees may apply.
('90 Code § 5.10.322) (Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994; Ord. 828, passed 1995; Ord. 834, passed 1995; Ord. 869, passed 1996; Ord. 892, passed 1997)

§ 21.613 BED AND BREAKFAST FACILITIES; FOOD SERVICE LICENSE FEES.

For the services of the department in connection with the inspection of food service facilities as those terms are defined in ORS 624, the department shall collect an annual license fee from each applicant in an amount set by Board resolution.
('90 Code § 5.10.323) (Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994; Ord. 869, passed 1996)

TOURIST FACILITIES

§ 21.650 TOURIST AND TRAVELERS FACILITIES LICENSE FEES.

For the services of the department in connection with the issuance of licenses, the department shall collect from every applicant, at the time of application, fees in amounts set by Board resolution.
('90 Code § 5.10.345) (Ord. 176, passed 1978; Ord. 568, passed 1987; Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994; Ord. 828, passed 1995; Ord. 869, passed 1996)

§ 21.651 BED AND BREAKFAST FACILITIES; TOURIST ACCOMMODATIONS LICENSE FEE.

For the services of the department in connection with the inspection of tourist accommodation facilities, as those terms are defined in ORS 446, the department shall collect an annual license fee from each applicant in an amount set by Board resolution.
('90 Code § 5.10.346) (Ord. 587, passed 1988; Ord. 656, passed 1990; Ord. 697, passed 1991; Ord. 726, passed 1992; Ord. 803, passed 1994)

REFUSE

§ 21.700 TITLE AND AREA OF APPLICATION.

This subchapter shall be known and cited as the county Illegal Dumping Law and shall apply to the unincorporated areas of the county.
('90 Code § 8.75.050) (Ord. 717, passed 1992)

§ 21.701 REFUSE HAULING REGULATIONS.

No person, firm or corporation shall transport or carry, or direct another person, firm or corporation to transport or carry, any rubbish, trash, garbage, debris or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road in the county, unless such refuse or recyclable material is either:

(A) Completely covered on all sides and on the top and bottom thereof and such cover is either a part of or securely fastened to the body of such motor vehicle or trailer; or

(B) Contained in the body of the motor vehicle or trailer in such a way as not to cause any part of the hauled refuse or recyclable material to be deposited upon any private or public roadway or driveway in the county.
('90 Code § 8.75.100) (Ord. 717, passed 1992) Penalty, see § 21.999

§ 21.702 DUMPING AND LITTERING PROHIBITED.

No person, firm or corporation shall throw or place or direct another person, firm or corporation to throw or place, other than in receptacles provided therefor, upon the private land or waters of another person, firm or corporation without the permission of the owner, or upon public lands or waters, or upon any public place, any rubbish, trash, garbage, debris or other refuse or recyclable material.
('90 Code § 8.75.200) (Ord. 717, passed 1992) Penalty, see § 21.999

§ 21.703 REWARD.

Any person who provides information leading to the imposition and collection of a fine under §§ 21.701 or 21.702 shall receive a reward of up to 51% of the amount of the fine collected by the county; provided, however, that no county officer, no county employee, and no agent of the county who is charged with the enforcement of this subchapter shall be eligible for this reward.
('90 Code § 8.75.300) (Ord. 717, passed 1992)

§ 21.704 HEARINGS OFFICER.

(A) The office of hearings officer for this subchapter is created.

(B) The officer shall be appointed by and serve at the will of the department. The county may enter into an intergovernmental agreement to share an Officer with other jurisdictions.

(C) The officer shall have jurisdiction over all cases submitted in accordance with the procedures and under the conditions set forth in this subchapter.

(D) The officer may promulgate reasonable rules and regulations, not inconsistent with this subchapter, concerning procedure and the conduct of hearings.
('90 Code § 8.75.500) (Ord. 717, passed 1992)

§ 21.705 COMPLAINT.

(A) A proceeding before the hearings officers may be initiated only as specifically authorized in this subchapter.

(B) A proceeding shall be initiated only by the department filing a complaint with the hearings officer.
('90 Code § 8.75.510) (Ord. 717, passed 1992)

§ 21.706 NOTICE OF HEARING.

The hearings officer shall cause notice of the hearing to be given to the respondent(s) either personally or by certified or registered United States mail. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the complaint shall be attached to the notice.
('90 Code § 8.75.520) (Ord. 717, passed 1992)

§ 21.707 ANSWER; DEFAULT.

(A) A respondent who is sent a complaint and notice of hearing for a violation of this subchapter shall answer such complaint and notice of hearing by personally appearing to answer at the time and place specified therein, or by mailing or otherwise delivering to the place specified on or before the assigned appearance date, a signed copy of the complaint and notice of hearing, together with a check or money order in the amount of the scheduled fine listed therein. If the violation is denied, a hearing will be held on the date assigned in the notice of hearing.

(B) If the respondent alleged to have committed the violation fails to answer the complaint and notice of hearing by the appearance date indicated, which shall be no sooner than seven days from the date of the notice of hearing, or appear at a hearing as provided herein, the hearings officer shall accept the

department's file as the entire record and shall deliver or mail a final order declaring a default and making the fine and costs identified in the complaint due and payable.
('90 Code § 8.75.530) (Ord. 717, passed 1992)

§ 21.708 HEARING.

(A) Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.

(B) The county shall not be represented before the hearings officer by County Counsel or hired counsel except in preparation of the case or as provided below. A respondent charged with a violation may be represented by a retained attorney provided that five working day's written notice of such representation is received by County Counsel. In such cases the county may have County Counsel or hired counsel represent it. The hearings officer may waive this notice requirement in individual cases or reset the hearing for a later date.

(C) The county must prove the violation occurred by a preponderance of the admissible evidence.

(D) A name of a person, firm or corporation found on rubbish, trash, garbage, debris or other refuse, or recyclable material, in such a way that it denotes ownership of the items, constitutes rebuttable evidence that the person, firm or corporation has violated the refuse hauling, dumping or littering regulations.

(E) The hearings officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the officer on a fact in issue during the pendency of the proceedings. The officer shall notify the parties of the communication and of their right to rebut such communications.

(F) The hearings officer shall have the authority to administer oaths and take testimony of witnesses. Upon the request of the respondent, or upon his or her own motion, the hearings officer may issue subpoenas in accordance with the state Rules of Civil Procedure, which shall apply to procedural questions not otherwise addressed by this subchapter.

(1) If the respondent desires that witnesses be ordered to appear by subpoena, respondent shall so request in writing at any time before five days prior to the scheduled hearing. A deposit for each witness in an amount set by Board resolution shall accompany each request, such deposit to be refunded as appropriate if the witness cost is less than the amount deposited.

(2) Subject to the same five-day limitation, the county may also request that certain witnesses be ordered to appear by subpoena.

(3) The hearings officer may waive the five-day limitation for good cause.

(4) Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases.

(5) If a fine is declared in the final order, the order shall also provide that the respondent shall also pay any witness fees attributable to the hearing.

(G) The respondent shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on his, her or its own behalf.

(H) After due consideration of the evidence and arguments, the hearings officer shall determine whether the violation alleged in the complaint has been established.

(1) When the determination is that the violation has not been established, an order dismissing the complaint shall be entered.

(2) When the determination is that the violation has been established, or if an answer admitting the infraction has been received, an appropriate order shall be entered.

(3) The final order issued by the hearings officer shall set forth both findings of fact and conclusions of law and shall contain the amount of the fine and costs imposed and instructions regarding payment.

(4) A copy of the order shall be delivered to the parties, or to their attorneys of record, personally or by mail.

(I) A tape recording shall be make of the hearing unless waived by both parties. The tape shall be retained for at least 90 days following the hearing or final judgment on appeal.
('90 Code § 8.75.540) (Ord. 717, passed 1992)

§ 21.709 REVIEW.

(A) Any motion to reconsider the order of the hearings officer must be filed within ten days of the original order or it may not be heard.

(B) Any aggrieved party, including the county, may appeal a final adverse ruling by writ of review as provided by ORS 34.010 through 34.100.
('90 Code § 8.75.550) (Ord. 717, passed 1992)

§ 21.710 ADMINISTRATION AND ENFORCEMENT.

(A) Enforcement of the regulatory enactments and policies set forth in this subchapter shall be the responsibility of the department.

(B) The department shall perform the following:

(1) Investigate refuse hauling, dumping and littering violations;

(2) Issue complaints;

(3) Reach settlements;

(4) Represent the county before the hearings officer, except where counsel is necessary; and

(5) Collect fines and costs.
('90 Code § 8.75.400) (Ord. 717, passed 1992)

§ 21.711 ENFORCEMENT OF FINES AND COSTS.

(A) Fines and costs are payable upon receipt of the written settlement or final order declaring the fines and costs. Fines and costs under this subchapter are a debt owing to the county and may be collected in the same manner as any other debt allowed by law.

(B) The county may institute appropriate suit or legal action in any court of competent jurisdiction to enforce the provisions of any written settlement of the department or final order of the hearings officer, including, but not limited to, action to obtain judgment for any civil penalty imposed by an order of the hearings officer pursuant to § 21.999.

(C) Fines and costs collected pursuant to the provisions of this subchapter shall be credited to the general fund.
('90 Code § 8.75.560) (Ord. 717, passed 1992)

§ 21.999 PENALTY.

(A) *Emergency medical services violations.*

(1) Violation of the emergency medical services subchapter, §§ 21.400 through 21.443, shall be a county offense and may be punished by a civil penalty of not more than $10,000.

(2) A schedule of fines to be levied for violations shall be found in EMS administrative rules.

(3) Additional penalties for contract violations are found in the contract for exclusive emergency ambulance service.

(4) The provisions of this section are in addition to and not in lieu of other procedures and remedies provided by law.
('90 Code § 6.33.096) (Ord. 816, passed 1995)

(B) *Food handler's certificate violations.* Violation of any provisions of §§ 21.600 through 21.609 not otherwise provided for is punishable upon conviction by a fine of not more than $500, or by imprisonment not exceeding six months, or both.
('90 Code § 8.30.900) (Ord. 124, passed 1976)

(C) *Refuse violations.*

(1) *Refuse hauling violations.* Any person, firm or corporation violating § 21.701 shall be subject to a civil fine of not less than $100 and no more than $500 for each violation. The county may prosecute any violation of § 21.701 before a hearings officer.
('90 Code § 8.75.110) (Ord. 717, passed 1992)

(2) *Dumping and littering violations.*

(a) Any person, firm or corporation violating § 21.702 shall be subject to the following:

1. A civil fine of not less than $500 and no more than $999 for each violation; and

2. An award of costs to reimburse the county for the actual expenses of clean-up and disposal caused by the violation.

(b) The county may prosecute any violation of § 21.702 before a hearings officer, or the county may prosecute a violation as a criminal or civil offense to the extent permitted under state law.
('90 Code § 8.75.210) (Ord. 717, passed 1992)

CHAPTER 23: COMMUNITY AND FAMILY SERVICES

Section

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Death, injuries and missing persons, see ORS, Ch. 146
Duties of public welfare board, see ORS, Ch. 411
Mentally ill and sexually dangerous, see ORS, Ch. 426
Mentally retarded; developmentally disabled, see ORS, Ch. 427
Protective proceedings, see ORS, Ch. 125

GENERAL PROVISIONS

§ 23.001 DEPARTMENT OF COMMUNITY AND FAMILY SERVICES ESTABLISHED.

The Department of Community and Family Services is established. It shall provide a comprehensive integrated delivery of community, youth and family services combining resources in health care, public safety, mental health, alcohol and drug treatment, gang intervention, prevention of child abuse and housing and community development services.
('90 Code § 2.30.114) (Ord. 818, passed 1995)

MENTAL HEALTH ADVISORY COMMITTEE

§ 23.100 TITLE.

This subchapter shall be known as the Mental Health Advisory Committee Law.
('90 Code § 8.40.010) (Ord. 794, passed 1994)

§ 23.101 COMMITTEE ESTABLISHED; FUNCTIONS.

(A) In order to comply with the requirements of ORS 430.630(8), there is hereby formally established a Mental Health Advisory Committee.

(B) The committee shall perform the following:

(1) Advise the local mental health authority and the community mental health program director on community needs and priorities for services and shall assist in planning and the review and evaluation of services;

(2) Serve in an advisory capacity to the community and family services division; and

(3) Participate with other agencies, groups and interested persons in the promotion of community awareness of mental health needs and services.
('90 Code § 8.40.030) (Ord. 794, passed 1994)

§ 23.102 MEMBERSHIP.

(A) *Members.* The committee shall be comprised of the membership of the four county community and family services division program area advisory councils:

(1) The mental and emotional disabilities advisory council;

(2) The council on chemical dependency;

(3) The developmental disabilities council; and

(4) The child and adolescent mental health program advisory committee.

(B) *Residency required.* All members of the above advisory councils shall reside or work in the county.

(C) *Terms.* Terms of members will be determined in accordance with the bylaws of each program area advisory group for the members of that group.

(D) *Compensation.* Members shall receive no compensation for serving on the committee.

(E) *Resignation.* The procedure for resignations will be determined in accordance with the bylaws of each program area advisory group for the members of that group.

(F) *Vacancies.* Nominations to fill vacancies on the four division advisory councils shall be submitted from the four program area groups in accordance with their bylaws for appointment by the Chair with approval of the Board.
('90 Code § 8.40.040) (Ord. 794, passed 1994)

§ 23.103 MEETINGS.

(A) *Regular meetings.* Regular meetings of each of the four program area advisory councils comprising the mental health advisory committee shall be held at least quarterly.

(B) *Special meetings.* At the request of the mental health authority, or any of the four program area advisory council chairs, an ad hoc meeting of the chairs may be convened to consider such business as might concern cross-program issues or to serve as the single contact point to fulfill state statute and administrative regulation requirements.

(C) *Communications.* All four chairs will receive all minutes and communications from the other division advisory groups comprising the mental health advisory committee. The community and family services division will notify each subsequent chair who takes office of their group's identification as part of the mental health advisory committee and their ad hoc responsibilities with the other division advisory group chairs.

(D) *Quorum.* Requirements for a quorum will be determined in accordance with the bylaws of each program area advisory group.

(E) *Conduct of meetings.* The current edition of Roberts Rules of Order shall govern the conduct of all regular and special meetings of the committee and its standing or special committees, insofar as the rules are not inconsistent with the provisions of each program area advisory group's bylaws.

(F) *Notice.* Notice of all public meetings of the committee will be provided as required by law.
('90 Code § 8.40.050) (Ord. 794, passed 1994)

§ 23.104 OFFICERS.

The officers of the four program area advisory groups shall be selected in accordance with each council's bylaws.
('90 Code § 8.40.060) (Ord. 794, passed 1994)

§ 23.105 CONFLICTS OF INTEREST.

Any member of the committee who has special interest in any matter before the committee shall so inform the committee and refrain from voting on the

matter. However, the interested member may participate in any discussion by the committee of such matter.
('90 Code § 8.40.070) (Ord. 794, passed 1994)

CHAPTER 25: AGING AND DISABILITY SERVICES

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GENERAL PROVISIONS

§ 25.001 DEPARTMENT ESTABLISHED.

The Aging and Disability Services Department is established. It shall provide social and health services relating to the needs of senior citizens and persons with disabilities in order to help them live as independently as possible, safely, with dignity in the least restrictive environments.
('90 Code § 2.30.112) (Ord. 818, passed 1995; Ord. 885, passed 1997)

PUBLIC GUARDIAN

§ 25.100 FINDINGS.

(A) There is a need for a guardian and conservator for persons within the county who do not have relatives or friends willing to serve as a guardian or conservator and capable of assuming the duties of guardianship or conservatorship.

(B) The Board has authority under state law to create the office of public guardian and conservator and expend county funds for office operations. By order, the Board created the county office of public guardian on December 30, 1971.

(C) There is a need to reauthorize the office by ordinance as part of the department of aging and disability services.
(Ord. — , passed 1998)

§ 25.101 OFFICE OF PUBLIC GUARDIAN.

(A) The office of public guardian and conservator is established within the department of aging and disability services.

(B) The director of the aging and disability services department shall appoint the public guardian and conservator (public guardian) who shall be bonded as provided by state law.

(C) The public guardian shall have the powers and duties assigned by state law and retain final responsibility for all office decisions regarding the care and safety of protected persons.

(D) The public guardian may delegate duties to assistant public guardians and conservators and other staff authorized by the Board.
(Ord. — , passed 1998)

ADULT CARE HOMES

PART 1: GENERAL PROVISIONS

§ 25.200 TITLE; AREA OF APPLICATION.

This subchapter shall be known and cited as the Adult Care Home Licensure Law and shall apply to all areas of the county.
('90 Code § 8.91.005) (Ord. 860, passed 1996)

§ 25.201 FINDINGS.

The Board finds that:

(A) Approximately 2,000 dependent adults, including elderly people and people with disabilities, live in adult care homes in the county; as of June 1, 1996, there were approximately 650 licensed adult care homes in the county;

(B) Standards and requirements are necessary to protect the health, welfare, and safety of the residents of adult care homes and to ensure that the homes maintain a homelike atmosphere for the residents;

(C) The county has received an exemption to state licensure and is authorized to operate a countywide licensing program. The state requires that the county program be equal or superior to the requirements of ORS 443.705 to 443.825;

(D) The Board established the adult care home program in May, 1986 to license and inspect adult care homes under the County Code;

(E) Consistent interpretation, application, and enforcement of regulatory standards is necessary and desirable for the protection of residents of adult care homes;

(F) The county's program for licensure of adult care homes has successfully licensed, monitored and inspected homes and investigated complaints; and
('90 Code § 8.91.010) (Ord. 860, passed 1996)

§ 25.202 PURPOSE.

(A) The purpose of this subchapter is to set forth the standards and requirements governing adult care homes in the county.

(B) The goal of an adult care home is to provide necessary care to residents while emphasizing the resident's independence. This goal is reached through a cooperative relationship between the care provider and the resident, resident's family, or resident's legal representative in a setting that protects and encourages the residents's dignity, choice, and decision-making. Resident needs will be addressed in a manner that enables the individual to function at his or her highest level of independence.

(C) The purposes of the adult care home program are to:

(1) Uphold the vision and standards for quality care in all adult care homes in the county;

(2) Enforce the county licensure law and administrative rules for adult care homes to ensure an appropriate physical environment and at least a minimum standard of care in each home;

(3) Ensure that adult care home residents are given care in a homelike atmosphere which is friendly, safe, and secure, where the atmosphere is more like a home than a medical facility, where the resident's dignity and rights are respected, where positive interaction between members of the home is encouraged, and where the resident's independence and decision-making is protected and encouraged; and

(4) Provide general information to the public about adult care homes in the county and ensure that the public has access to the information necessary to select an appropriate adult care home. ('90 Code § 8.91.015) (Ord. 860, passed 1996)

§ 25.203 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ACTIVITIES OF DAILY LIVING (ADL). Those personal functional activities required by an individual for continued well-being, including eating/nutrition, dressing, personal hygiene, mobility, toileting, and behavior, including medication and money management.

ADULT CARE HOME. Any home or facility that provides room or board for compensation to persons who are not related to the operator by blood, adoption, or marriage except as provided in MCAR 891-020-140. An adult care home does not include any house, institution, hotel, or other similar living situation that supplies room and board only, or room only, or board only, if no resident of the home/facility requires any element of care. Adult care homes do not include any home or facility already licensed otherwise by a public agency.

ADULT CARE HOME PROGRAM (ACHP). The regulatory program of the Aging and Disability Services Department of the county that enforces the county administrative rules for adult care homes.

AGING AND DISABILITY SERVICES DEPARTMENT. The department of the county government which is responsible for the provision of services, including Medicaid services, to elderly persons and some persons with disabilities.

BOARD. The operator's provision of meals on a predictable or regular basis.

CARE. The provision of room, board, services and assistance with activities of daily living, such as bathing, dressing, grooming, eating, bowel and bladder control, or behavior management, including medication and money management, except assistance with self-medication. ***CARE*** also means services that encourage maximum resident independence and enhance the quality of life.

CAREGIVER. Any person responsible for providing supervision, care and services to residents of an adult care home under the jurisdiction of the ACHP.

COMPENSATION. Payments in cash, in kind, or in labor, by or on behalf of a resident to an operator or common fund in exchange for room, board, care or services, including any supervision, care and services specified in the care plan. ***COMPENSATION*** does not generally include the voluntary sharing of expenses between or among roommates.

DIRECTOR. The director of the aging and disability services department.

DISABILITY. Any physical, emotional or cognitive impairment which constitutes or results in a functional limitation of one or more of the activities of daily living and which results in the individual needing care.

ELDERLY PERSON. Any person age 65 or older who is in need of care.

LICENSED ADULT CARE HOME. A facility which has been inspected and approved by the Adult Care Home Program.

OPERATOR. The person licensed by the adult care home program to operate the adult care home who has overall responsibility for the provision of residential care, who meets the standards outlined in the administrative rules.

OWNER. Any person with any legal or equitable interest in, and with the right or power of control over, the physical structure of an adult care home.

RESIDENT. Any person who is receiving room, board, care, or services for compensation in an adult care home.

RESIDENT MANAGER. A person employed by the adult care home operator and approved by the ACHP who lives in the home, is responsible for the daily operation of the home and care given to residents, and who must comply with the ACHP rules.

ROOM. The provision of a place to sleep on a regular basis.
('90 Code § 8.91.020) (Ord. 860, passed 1996)

§ 25.204 RESIDENTS' BILL OF RIGHTS.

(A) The director shall promote the Residents' Bill of Rights, shall ensure that each operator of an adult care home is provided with a copy, and shall ensure that each operator complies with the provisions in the Residents' Bill of Rights. Each operator shall post the Residents' Bill of Rights in a conspicuous place in the adult care home.

(B) The Residents' Bill of Rights shall read as follows:

The Bill of Rights for residents of adult care homes.

Each resident of an adult care home in the county has a right to:

(a) Be treated as an adult with respect and dignity.

(b) Live in a safe, secure, and homelike environment.

(c) Be informed of all resident rights and house rules.

(d) Be encouraged and assisted to exercise rights as a citizen, including the right to vote and to act on his or her own behalf.

(e) Be given information about his or her medical condition.

(f) Consent to or refuse treatment or training.

(g) Have all medical and personal information kept confidential.

(h) Receive appropriate care and services from the adult care home and have access to prompt medical care as needed.

(i) Be free from mental or physical abuse, neglect, abandonment, punishment, harm or sexual exploitation.

(j) Be free to make suggestions or complaints without fear of retaliation.

(k) Be free from financial exploitation, including charges for application fees or non-refundable deposits and solicitation of money or property by an operator, resident manager, or caregiver, other than the amount agreed to for services.

(l) Be free from physical or chemical restraints except as ordered by a physician or qualified practitioner.

(m) Be free from any type of illegal discrimination.

(n) Be afforded personal privacy, the opportunity to associate and communicate privately with any person the resident chooses, to send and receive mail unopened, and to use the telephone in private.

(o) Participate in social, religious, and community activities.

(p) Make personal decisions about such things as friends, leisure activities, choice of physician, spending personal money, food, personal schedules, and place of residence.

(q) Be allowed and encouraged to develop talents and learn new skills, relate to other residents in meaningful ways, and the choice to take part in the normal activities and upkeep of the home.

(r) Keep and use a reasonable amount of personal clothing and other belongings, and have a reasonable amount of private, secure storage space.

(s) Be free to manage financial affairs unless legally restricted.

(t) Receive a written agreement regarding the services the home shall provide and rates charged, and receive at least 30 days written notice before the home's ownership or rates will change.

(u) Receive at least 30 days written notice and an opportunity for a hearing before being involuntarily moved out of the home by the operator, unless there is an emergency situation.

(v) Be involuntarily moved out of the home only for the following:

(1) Medical reasons,

(2) The resident's welfare,

(3) The welfare of other residents,

(4) Nonpayment,

(5) Behavior which poses an immediate threat to self or others,

(6) Behavior which substantially interferes with the orderly operation of the home,

(7) Care needs of the resident which exceed the ability or classification of the operator, or

(8) The home's loss of license.

(w) Receive complete privacy when receiving treatment or personal care.

(x) Receive visitors free from arbitrary and unreasonable restrictions.

(y) Practice the religion of his/her choice.

(z) Not be forced to work against his/her will and to be paid for agreed upon work.

('90 Code § 8.91.030) (Ord. 860, passed 1996)

§ 25.205 LICENSE REQUIRED; APPLICATION.

(A) It is unlawful, and it shall constitute an offense in violation of this subchapter, for any person to establish, maintain or conduct in the county any adult care home without first having been licensed by the director through the adult care home program.

(B) The adult care home program shall license three types of adult care homes:

(1) Adult foster homes which may serve up to five residents who are unrelated to the operator or resident manager by blood, adoption or marriage and who require care;

(2) Limited license homes which may serve only the individual(s) specifically named on the license; and

(3) Room and board licenses for facilities which provide only room and board to elderly people or people with disabilities.

(C) Every person desiring to establish, maintain, operate or conduct an adult care home in the county shall make application for a license and successfully complete the application process.
('90 Code § 8.91.035) (Ord. 860, passed 1996) Penalty, see § 25.999

§ 25.206 LICENSE.

After receipt of the completed application packet, and upon payment of the prescribed fee, the director shall cause an evaluation to be made subject to the provisions of § 25.213. The director shall issue a license to the operator if the adult care home and all caregivers are in compliance with the provisions of this subchapter and the rules and standards established by the director. Licenses are effective for one year from the date of issue unless sooner revoked and shall be renewed annually on a date established by the director. The director shall maintain a registry of adult care homes licensed under this subchapter.
('90 Code § 8.91.040) (Ord. 860, passed 1996)

§ 25.207 LICENSE FEE.

There shall be a licensure fee in an amount set by Board resolution, payable to the department. There shall be a fee for approval of each resident manager and a fee for approval of each substitute caregiver, in amounts set by Board resolution.
('90 Code § 8.91.045) (Ord. 860, passed 1996)

§ 25.208 LICENSE NOT TRANSFERABLE.

No license which has been issued for the operation of an adult care home to any persons for a given location shall be valid for use by any other person or at any location other than that for which it is issued.
('90 Code § 8.91.050) (Ord. 860, passed 1996) Penalty, see § 25.999

§ 25.209 STANDARDS FOR OPERATION.

(A) The director shall ensure that all adult care homes meet or exceed the standards set forth in this subchapter and in the county administrative rules for adult care homes.

(B) The operator, resident manager, and all caregivers in an adult care home must abide by the provisions in this subchapter and in the county Administrative Rules for Adult Care Homes.

(C) In an adult care home, the operator or resident manager must live in the home where the care is provided or must obtain a written exception in order for the adult care home to be licensed.

(D) The operator must ensure that any individual age 16 or older who lives or works in the adult care home, except the resident and residents' family members, has a state and/or multi-state criminal record check approval, as required, before working in or living in the adult care home.
('90 Code § 8.91.055) (Ord. 860, passed 1996) Penalty, see § 25.999

§ 25.210 INSPECTIONS.

(A) The director or authorized representative of the director, including but not limited to county, city, and state officials, shall have full authority to and may enter, at any time, an adult care home licensed pursuant to this subchapter or any unlicensed adult care home which the director has cause to believe is operating without a license and inspect the entire premises for the purpose of ascertaining the safe, sanitary and habitable condition thereof and the physical and mental condition of the residents. The director shall have full authority to and may privately interview any resident and inspect any records concerning residents maintained by the adult care home.

(B) In the event that the director is denied access to any adult care home for the purpose of making an inspection in the administration of this subchapter, the director or his or her authorized representative shall not inspect without a search warrant or its equivalent.

(C) The director may proceed ex parte to seek a warrant or its equivalent. Application for a search warrant to inspect the premises shall be made to any magistrate authorized to issue a warrant of arrest. The application must be supported by an affidavit filed with the magistrate stating the purpose and extent of the proposed inspection, whether it is a routine or periodic inspection or an inspection instituted by complaint and other specific or general information concerning the premises.

(D) The director shall report observations or evidence of substandard conditions, poor care, or a potential need for protective services including abuse, neglect, or exploitation of a resident, to the appropriate agency. The director shall ensure that appropriate corrective action is taken as a result of this information.
('90 Code § 8.91.060) (Ord. 860, passed 1996)

§ 25.211 COMPLAINTS.

(A) Complaints against licensed or unlicensed adult care homes may be filed with the director by any person, whether or not a resident of the home. The director shall investigate and shall respond promptly and appropriately to each complaint subject to available resources.

(B) The director shall maintain a file of all complaints and the action taken on the complaint, if any, indexed by the name of the operator. The filed complaint forms shall protect the privacy of the complainant, the resident, and any witnesses.

(C) It is the intent of this subchapter that information shall be made available to the public which would assist the public in its selection of an adult care home. To this end, the director shall make available the information in the public files for inspection and copying by the public. The director may, however, in accordance with the provisions of ORS Chapter 124 or according to rules duly promulgated pursuant to §§ 25.250 through 25.270, classify file information as confidential.

(D) No operator of an adult care home shall retaliate against a resident by increasing charges; decreasing services, rights or privileges; or threatening to increase charges or decrease services, rights or privileges; by taking or threatening to take any action to coerce or compel the resident to leave the facility, including bringing or threatening to bring an action for possession; or by abusing or threatening to harass or to abuse a resident in any manner after the resident or any person acting on behalf of the resident has filed a complaint with the director.

(E) No operator of an adult care home shall retaliate against an employee who has filed a complaint with the director.
('90 Code § 8.91.065) (Ord. 860, passed 1996) Penalty, see § 25.999

§ 25.212 SANCTIONS.

(A) The director shall have the authority to revoke, suspend, not renew, deny or attach conditions to any license for an adult care home under the following circumstances and such other circumstances as may be established by rules adopted under this subchapter:

(1) When the license was issued upon fraudulent or untrue representation;

(2) Where there exists a threat to the life, health, safety, or welfare of any resident;

(3) When there is reliable evidence of abuse, neglect or exploitation of any resident; or

(4) When the owner or operator has failed to comply with the provisions of this subchapter; with city and county codes and ordinances; with the rules and procedures duly promulgated by the adult care home program; or with any other state or federal law or rule applicable or relevant to the health, welfare or safety of a resident.

(B) Denial, suspension, non-renewal, or revocation of a license by the director shall be preceded by a hearing under § 25.214 if requested by the operator, unless the license is denied, suspended or revoked for the reason of an immediate threat to the life, health, safety, or welfare of a resident. If an immediate threat exists, the denial, suspension or revocation shall be effective upon order of the

director. In this case, a hearing shall follow the denial, non-renewal, suspension or revocation if requested by the operator.

(C) Conditions attached to a license shall be effective upon order of the director.

(D) An operator of an adult care home whose license has been revoked, suspended, not renewed, or denied, or who has operated without a license in violation of this subchapter has a duty, when so ordered by the director, to effect orderly and appropriate placement of all residents, and to refund any monies due, within a reasonable period of time from the effective date of the order. The operator shall cooperate with the department, which shall assist the residents and operator in effecting such placement.

(E) Any operator of an adult care home whose license has been revoked, voluntarily surrendered during a revocation/non-renewal process, or whose application has been denied shall be disqualified from applying for a license for one year from the date the revocation, denial, or surrender is final, or for a longer period if specified in the order revoking or denying the license.
('90 Code § 8.91.070) (Ord. 860, passed 1996) Penalty, see § 25.999

§ 25.213 INSTITUTION OF LEGAL PROCEEDINGS.

(A) Upon recommendation of the director, the County Counsel, acting in the name of the county, may bring an action or proceedings in a court of competent jurisdiction to compel compliance with or restrain by injunction any violations of this subchapter or the rules adopted under it.

(B) Circumstances in which such an action or proceeding may be brought include but are not limited to the following:

(1) When an adult care home is operated without valid licensure; or

(2) After notice of a denial, suspension, non-renewal, or revocation of a license has been given and a reasonable time for placement of residents by the operator into other facilities has been allowed, but such placement has not been accomplished.
('90 Code § 8.91.080) (Ord. 860, passed 1996)

§ 25.214 APPEALS AND HEARINGS REVIEW.

(A) Any operator who has been denied a license, whose license has been suspended or revoked, not renewed, or upon whose license conditions have been imposed, or who has received sanctions, including fines, from the adult care home program may request a hearing by filing a written request with the director.

(B) A request for a hearing shall be filed within 20 days of the date of the director's written notice of the action. The request for a hearing shall set forth the reasons for the hearing and the issues to be heard. The director may prescribe forms for filing an appeal.

(C) (1) Unless an administrative conference is scheduled with the approval of the operator, upon receipt of a timely request for a hearing, the director shall, within 15 days, notify the hearings officer. The hearings officer shall designate a time and place for a hearing as soon as possible but in no case more than 30 days from the date of the hearings officer's receipt of the request for a hearing.

(2) If an administrative conference is held and the operator is not satisfied with the outcome, a hearing shall be scheduled not more than 30 days after written notice from the operator to the director. The hearings officer shall give the owner or operator at least 10 days written notice of the time and place of the hearing. The operator shall post the notice in a conspicuous place in the adult care home.

(3) If the administrative conference is cancelled, the operator shall have 20 days from cancellation to request a hearing.

(D) Any resident who is not covered by the Residential Landlord and Tenant Act, or any person acting in such a resident's behalf, may request a hearing by filing a request with the director following

receipt of a notice of involuntary eviction from an operator. An adult care home owner, operator or employee who receives a request for such a hearing shall immediately notify the director.

(E) Upon receipt of a request of a hearing on an involuntary eviction pursuant to division (C) of this section, the director shall promptly cause an investigation to be made to determine if a resolution can be achieved without a hearing. If a resolution cannot be achieved, the director shall designate and promptly notify the hearings officer, who shall set a time and place for a hearing. The hearing shall not be scheduled more than 30 days from the date the director receives the request for a hearing. The hearings officer shall give the parties written notice of the time and place of hearing. If the director has determined that immediate transfer is justified by an emergency as specified in rules adopted under this subchapter, then this hearing may occur after such transfer has taken place.

(F) Hearings shall be conducted in accordance with hearing rules adopted by the director. If a procedural issue arises that is not addressed in the Department's hearing rules, the issue shall be resolved in accordance with the Attorney General's Model Rules of Procedure. The director shall adopt rules and standards concerning involuntary evictions involving residents receiving care, including information to be considered, such as the effect of the move on the residents, and standards for decisions in hearings.

(G) ***PARTY*** means a person who is a party to the proceeding or hearing and, unless such rights are waived, is entitled to participate in the manner or area(s) specified by the hearings officer according to rule duly promulgated pursuant to §§ 25.250 through 25.270. Parties include the following:

(1) The county, through the initiating department;

(2) The person(s) requesting the hearing and named respondents; and

(3) Residents of the involved adult care home where vacation, closure, demolition, or relocation of residents is a reasonably possible outcome of the proceeding or hearing.

(H) Disclosure of ex parte communications shall be made by the hearings officer or the director in accordance with the Attorney General's Rules of Procedure.

(I) The hearings officer shall issue an order as soon as is practicable but in no event later than 45 days after the termination of the hearing and shall mail a copy of the order to the parties. The order shall include an opinion containing findings of fact and conclusions of law explaining the reason and rationale adopted by the hearing officer in arriving at his or her conclusions.

(J) The hearings officer's order shall be a final order. The hearings officer shall notify the parties of the right to appeal the final order to the circuit court under ORS 34.010 to 34.100.

(K) Review of the final order shall be taken solely and exclusively by writ of review as set forth in ORS 34.011 to 34.100.
('90 Code § 8.91.085) (Ord. 860, passed 1996)

§ 25.215 CIVIL CAUSE OF ACTION.

A violation of any of the rights set forth in § 25.204 or the rules adopted in connection with § 25.204 creates a civil claim by the resident against the owner or operator of the adult care home. The resident may bring an individual action in an appropriate court for injunctive relief and/or recover actual damages or $1,000, whichever is greater. The court may provide such equitable relief as it deems proper, and may award, in addition to relief provided in this section, reasonable attorney fees, at trial and upon appeal, and costs. If the defendant prevails, the court may award reasonable attorney fees at trial and on appeal, and costs if it finds the action to be frivolous.
('90 Code § 8.91.090) (Ord. 860, passed 1996)

§ 25.216 INTERGOVERNMENTAL AGREEMENTS.

The county may enter into agreements with cities in the county regarding enforcement of this subchapter within those cities. In addition, the county may enter into such agreements with the state as are necessary to permit administration or enforcement of this subchapter within the county.
('90 Code § 8.91.150) (Ord. 860, passed 1996)

§ 25.217 ADMINISTRATION AND ENFORCEMENT.

(A) It is the responsibility of the director to administer and enforce this subchapter and rules adopted under it. The director has authority to initiate all of the activities of the adult care home program, including enforcement proceedings. Nothing in this subchapter creates a cause or right of action against the county, its agents or employees for the failure to enforce any provision of this subchapter.

(B) The director shall have the authority to promulgate such rules as may be necessary for the administration and enforcement of this subchapter, pursuant to the procedures set forth in §§ 25.250 through 25.270.

(C) The director shall adopt rules and standards governing adult care homes such as are necessary to protect the health, safety, and welfare of the residents, and which shall be consistent with the residential nature of the living accommodations.

(D) The specific requirements of this subchapter or rules adopted under it may be varied by the director upon good and sufficient cause shown that this action is in keeping with the intent and purpose of this subchapter. When a variance is granted, the director shall provide documentation of the reasons for it.

(E) The director shall have the authority to do the following:

(1) Administer oaths;

(2) Audit records in order to assure conformance with this subchapter;

(3) Certify official acts;

(4) Subpoena and require attendance of witnesses at meetings or hearings to determine compliance with this subchapter;

(5) Require the production of relevant documents;

(6) Swear witnesses;

(7) Take testimony of witnesses in person or by deposition; and

(8) Perform all other acts necessary to enforce the provision of this subchapter.

(F) The director has the authority to designate to others in the department responsibility to carry out the requirements of any provision of this subchapter.
('90 Code § 8.91.025) (Ord. 860, passed 1996)

ADULT CARE HOMES

PART 2: ADOPTION OF ADMINISTRATIVE RULES

§ 25.250 INITIATION OF RULE ADOPTION.

The director or any member of the Board may propose adoption, amendment or repeal of a rule under this subchapter.
('90 Code § 8.91.160) (Ord. 860, passed 1996)

§ 25.251 APPROVAL OF FORM; FILING.

The proposed rule shall be approved as to form by the County Counsel and filed with the director and the clerk of the Board.
('90 Code § 8.91.165) (Ord. 860, passed 1996)

§ 25.252 CONTENTS OF NOTICE OF INTENT TO ADOPT.

Notice of intent to adopt a proposed rule shall contain the following information:

(A) Description of the proposed action, i.e., adoption, repeal, or amendment;

(B) A summary of the intent, subject and content of the proposed rule;

(C) Complete text of the proposed rule where practicable, or the location, time and contact person for obtaining a copy of the complete text of the proposed rule;

(D) The time limit, location, contact person and format for submitting views and comments on the proposed rule; and

(E) The time limit, location, format and contact person for requesting postponement of the action on the proposed rule.
('90 Code § 8.91.170) (Ord. 860, passed 1996)

§ 25.253 PUBLICATION OF NOTICE.

In addition to such notice as may be required by law, notice of intent to adopt a rule shall be made in the following manner:

(A) Publication in a newspaper of general circulation at least 15 days before the close of the review period; and

(B) Posting in a prominent location in the county courthouse at least 15 days before the close of the review period.
('90 Code § 8.91.175) (Ord. 860, passed 1996)

§ 25.254 REVIEW AND COMMENT PERIOD.

Notice of intent to adopt a proposed rule shall be made after the notice is filed with the clerk of the Board. The review period for submitting comments shall be 15 days and shall commence with publication of notice of intent to adopt a proposed rule.
('90 Code § 8.91.180) (Ord. 860, passed 1996)

§ 25.255 RULE ADOPTION.

If at the close of the review period there have been no requests for a postponement or a public hearing, the director shall, within ten days from the close of the review period, consider the review comments and either adopt or reject the proposed rule or adopt the rule with modifications. If a proposed rule is to be substantially amended as a result of review comments, it must be considered as a newly proposed rule. The adopted rule shall be filed with the director and the clerk of the Board within ten days from the close of the review period.
('90 Code § 8.91.185) (Ord. 860, passed 1996)

§ 25.256 POSTPONEMENT OF ACTION.

If within the review period an interested person requests postponement of the intended action, the director, if the grounds are judged to be sufficient, shall postpone the intended action no less than ten days nor more than 60 days to allow the requesting person an opportunity to submit data, views or arguments. A request for postponement must be made in writing to the director and must include a statement of the identity and interest of the requesting person and of the grounds for requesting postponement.
('90 Code § 8.91.190) (Ord. 860, passed 1996)

§ 25.257 REQUEST FOR PUBLIC HEARING.

If within the review period ten or more persons, or an association with ten or more members or a corporation requests, in writing, a public hearing on the proposed rule, the director shall announce and conduct a public hearing.
('90 Code § 8.91.195) (Ord. 860, passed 1996)

§ 25.258 NOTICE OF PUBLIC HEARING; CONTENTS.

Notice for a public hearing on a proposed rule shall contain the following information:

(A) Description of the proposed action, such as adoption, repeal or amendment;

(B) A summary of the intent, subject and content of the proposed rule;

(C) The date, time, place and presiding officer of the public hearing and the manner in which interested persons may present their views;

(D) Complete text of the proposed rule if practicable or the location, time and contact person for obtaining a copy of the complete text of the proposed rule;

(E) The time limit, location, format and contact person for appealing the decision of the director to the Board.
('90 Code § 8.91.200) (Ord. 860, passed 1996)

§ 25.259 NOTICE OF PUBLIC HEARING; PUBLICATION.

The notice of a public hearing shall be published in a newspaper of general circulation within the county at least ten days before the hearing. Notice of the public hearing shall also be given by mail to all parties who have submitted comments and to the mailing list of the interested parties.
('90 Code § 8.91.205) (Ord. 860, passed 1996)

§ 25.260 PUBLIC HEARING; ACTION ON RULE; FILING.

The director shall conduct the public hearing. At the close of the hearing the director shall adopt, reject or amend the proposed rule. No further notice is required for continuation of a hearing to a certain date. The director shall file notice of the action taken with regard to the proposed adoption, amendment or repeal of a rule with the clerk of the Board within 15 days of the public hearing. Filing of the notice of action with the clerk of the Board initiates a ten-day appeal period. If no appeal is made, the action by the director in regard to the rule shall take effect at the end of the appeal period, unless a later effective date is specified.
('90 Code § 8.91.210) (Ord. 860, passed 1996)

§ 25.261 APPEAL TO THE BOARD.

Any interested person may appeal the action of the director on a rule after a public hearing on the matter. Any member of the Board may also request review of the action. Appeal must be made in writing and filed with the director within ten days of filing of the notice of action with the clerk of the Board. Board commissioners must request review within the same time.
('90 Code § 8.91.215) (Ord. 860, passed 1996)

§ 25.262 APPEAL REQUEST; CONTENTS.

The appeal request shall contain the following:

(A) An identification of the decision or action being appealed, including its date;

(B) A statement of the identity interest of the person making the appeal; and

(C) The specific grounds for the appeal.
('90 Code § 8.91.220) (Ord. 860, passed 1996)

§ 25.263 COMMISSIONER REQUEST FOR REVIEW.

A commissioner may initiate review by requesting that the matter be placed on the agenda for the Board's next regular meeting.
('90 Code § 8.91.225) (Ord. 860, passed 1996)

§ 25.264 HEARING DATE.

Upon receipt of an appeal request in conformance with the requirement of § 25.262, the director shall schedule a hearing by the Board at the Board's next regular meeting for which the agenda

has not closed and the date of which permits ten days to publish notice in a newspaper of general circulation.
('90 Code § 8.91.230) (Ord. 860, passed 1996)

§ 25.265 NOTICE OF APPEAL HEARING.

The county shall prepare notice for appeal of hearings. The notice shall contain the information described in § 25.258(D) and (E). Notice shall be published in a newspaper of general circulation in the county at least ten days prior to the hearing. The county shall also notify by mail persons who have submitted comments on the proposed rule and to the mailing list of interested parties.
('90 Code § 8.91.235) (Ord. 860, passed 1996)

§ 25.266 HEARING PROCEDURE.

The appeal hearing shall be conducted as a regular meeting of the Board. The Board's action shall take the form of a Board order.
('90 Code § 8.91.240) (Ord. 860, passed 1996)

§ 25.267 TEMPORARY RULES.

The director may be confronted with a situation where it is necessary to put a rule into immediate effect in order to protect the public or the interests of particular parties. In that case, and where there is not sufficient time to follow the procedure requirements set forth in §§ 25.250 through 25.266, the director is authorized to use temporary rules.
('90 Code § 8.91.245) (Ord. 860, passed 1996)

§ 25.268 REQUIREMENTS FOR TEMPORARY RULES.

The director may proceed without prior notice or hearings that he or she finds practicable, to adopt a rule without the notice otherwise required by this subchapter. In that case, the director shall:

(A) File a certified copy of the rule with the clerk of the Board;

(B) File with the rule the director's finding that failure of the director to act promptly will result in serious prejudice to the public interest or to the interest of the parties concerned. Findings shall be supported by a statement of specific facts and reasons; and

(C) Take appropriate measures to make the temporary rule known to the persons who may be affected by the temporary rule, including publication in a newspaper of general circulation in the county, as promptly after filing the rule as practicable and giving notice of the rule by mail to persons who may be affected by it.
('90 Code § 8.91.250) (Ord. 860, passed 1996)

§ 25.269 EFFECTIVE DATE OF TEMPORARY RULE.

A temporary rule adopted in compliance with § 25.268 and this section becomes effective immediately upon filing with the clerk of the Board or at a later time which may be designated by the rule itself.
('90 Code § 8.91.255) (Ord. 860, passed 1996)

§ 25.270 DURATION OF TEMPORARY RULE.

A temporary rule may be effective for a period of not longer than 120 days. No temporary rule may be renewed after it has been in effect 120 days. The director may, however, adopt an identical rule on notice in accordance with the procedures set forth in this subchapter.
('90 Code § 8.91.260) (Ord. 860, passed 1996)

§ 25.999 PENALTY.

(A) Any person who violates a provision of the adult care homes subchapter, §§ 25.200 through 25.270, or the rules promulgated thereunder may be punished by a fine in an amount to be fixed by the director, not to exceed $1,000 for each violation. In addition, a continuing violation shall subject to the operator or owner to an action for injunctive relief.

(B) The provisions of this section are in addition to and not in lieu of other procedures and remedies provided by law.
('90 Code § 8.91.075) (Ord. 860, passed 1996)

CHAPTER 27: ENVIRONMENT AND PROPERTY

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GENERAL PROVISIONS

§ 27.001 DEPARTMENT ESTABLISHED; FUNCTIONS.

The Department of Environmental Services (department) is established. The department shall:

(A) Provide land use planning recommendations and services to the Planning Commission and the Board in matters of planning, zoning, subdivisions, sales and leases of noncounty real property, and related matters;

(B) Provide services and perform duties imposed by state law relating to the construction, maintenance and operation of county roads and bridges, sewerage and solid waste disposal facilities and other public works facilities;

(C) Provide required surveys, examinations, inspections, and issuance of permits relating to construction and occupancy of buildings and other facilities;

(D) Provide animal control programs and facilities;

(E) Provide county services relating to county service districts and to state, local or private agencies relating to the physical environment;

(F) Operate and maintain county facilities, and manage and maintain county lands;

(G) Plan, implement and coordinate the county's recycling program;

(H) Perform the duties prescribed by state law for the assessor and tax collector;

(I) Perform the duties prescribed by state law for county elections;

(J) Provide records storage services to the county government;

(K) Provide mail services to the county government;

(L) Except as otherwise provided by the Board, perform the duties prescribed by state law for county clerks. The director may delegate any such duty, but a delegation shall be in writing and filed with the clerk of the Board; and

(M) Provide fleet and electronic services.
('90 Code § 2.30.200) (Ord. 64, passed 1972; Ord. 528, passed 1986; Ord. 606, passed 1989; Ord. 686, passed 1991; Ord. 698, passed 1991; Ord. 701, passed 1991; Ord. 841, passed 1995)

FEES

§ 27.050 POLICY.

The Board declares it to be in the interests of the people of the county for the fees and charges established in this chapter to be assessed by the department, to the end that the services it provides and responsibilities it performs will continue to be delivered at optimum levels.
('90 Code § 5.10.200(A)) (Ord. 126, passed 1976)

§ 27.051 SUBSURFACE SEWAGE INSPECTIONS AND PERMITS.

The fees for subsurface sewage inspections and permits shall conform with ORS 454.605 through 454.755, as amended from time to time.
('90 Code § 5.10.205) (Ord. 126, passed 1976; Ord. 256, passed 1980)

§ 27.052 MISCELLANEOUS PERMIT FEES.

(A) The following permit fees shall be charged, in amounts set by Board resolution:

(1) *Overweight moves.* For overweight or overdimensional moves, except for moves as specified in division (B) of this section, either single trip or annual permit, the fee shall be an amount set by Board resolution. Future fee increases by the state department of Transportation shall automatically increase the county's fee for this service to the same level, without action of the Board.

(2) *Structure moves.* For building and structure move permits issued under authority of ORS 483.502 to 483.536. All permittees shall post a deposit of $1,000 prior to issuance of a permit. Non-refundable permit application, investigation and issuance fees for structures under 14 feet in width and 15 feet in height shall be as set by Board resolution. For structures exceeding the above-dimensions the non-refundable permit fee shall be as set by Board resolution. Inspection fees shall be billed at the actual costs incurred by the county including overhead and equipment costs. For over-dimensional moves other

than house moves the non-refundable permit fees for heights over 17 feet in width shall be amounts as set by Board resolution for normal workdays and for holidays and weekends.

(3) *Other permits.* Permit fees shall be charged for the following, in amounts set by Board resolution:

(a) Manholes for storm and sanitary sewers;

(b) Canopies, awnings and marquees;

(c) Construction or reconstruction of driveway approaches;

(d) Sewer connections;

(e) Drilling or boring test holes;

(f) Curb drain outlet construction or reconstruction, including drainage connections to catchbasins;

(g) Sidewalk construction or reconstruction, and curt construction or reconstruction;

(h) Release of advertising benches picked up within the right-of-way;

(i) Any excavation, construction, reconstruction, repair, removal, abandonment, placement or use within the right-of-way, except where otherwise provided in this subchapter;

(j) Material filling or excavating within the public right-of-way;

(k) Underground storm or sanitary sewer construction, including property service and laterals not maintained by the county; and

(l) Temporary closure of any street or any portion of a street.

(B) If work is commenced on a project requiring a permit without first securing the permit, the fee shall be double the fee established under this section. If the fee required by this section is not paid directly to the department by the owner of the property, the person paying the penalty shall be required to notify the owner that the penalty was imposed. Payment of the fee shall not relieve or excuse any person from penalties imposed for violation of any applicable statutes or ordinances.

(C) A permit deposit for each permit authorizing work under ORS 374.305 not covered in this section shall be 120% of estimated amount charges based on the estimated hours or part thereof for plan review and/or inspection. The final fee will be determined at completion of the project based on the actual costs incurred by the county including overhead and other related costs. The difference between the two amounts will be billed or refunded to the permit holder with the minimum fee being an amount set by Board resolution.

(D) Permits under this section shall be issued without charge when a permit is required as a direct result of a county public works improvement.
('90 Code § 5.10.215) (Ord. 126, passed 1976; Ord. 195, passed 1979; Ord. 256, passed 1980; Ord. 278, passed 1981; Ord. 367, passed 1983; Ord. 467, passed 1985; Ord. 826, passed 1995)

§ 27.053 PLAN REVIEW AND INSPECTION OF UNDERGROUND INSTALLATIONS AND STREET INTERSECTIONS.

(A) For plan review and inspection of any storm sewer line installation, when completed facilities are to be maintained by the county, the fee shall be as set by Board resolution.

(B) When submitting plans for review, the applicant shall submit a copy of the engineer's estimate or the bid construction cost. No plans will be reviewed without the required cost figures. If, in the opinion of the director, the cost figures appear unreasonable, the director shall establish the permit

fee based upon the director's cost estimate of the work to be done. The director shall submit a report to the Chair whenever a cost estimate is adjusted, and shall state his reasons therefor.

(C) For utility lines, including storm and sanitary sewers, to be maintained by others, not connecting to a county-maintained system but located within county-controlled right-of-way or easements, the plan review and inspection fee will be as set by Board resolution.

(D) For storm or sanitary sewer line systems located on private land connecting to county-maintained systems the plan review and inspection fee will be as set by Board resolution. Developments requiring both storm and sanitary system review will be charged that rate for each.

(E) A *SEWER LINE SYSTEM*, for fee purposes, means a line with two or more connections including lateral lines, house branches, inlets or any other appurtenance contributing discharge.

(F) Plan review and inspection fees will be established by the director for connections to a county system where the development area is not discernable or applicable. A deposit shall be 120% of estimated amount of charges based on the estimated hours or parts thereof required for plan review and/or inspection. The final fee will be determined at completion of the project based on costs incurred by the county including overhead and other related costs. The difference between the actual costs and the deposit will be billed or refunded to the permit holder.

(G) For plan review and inspection of each street intersection or vehicle access, either public or private, other than a standard driveway approach, a fee in an amount set by Board resolution will be charged.

(H) Plans shall be reviewed by the county under this section for compatibility with the comprehensive plan, conformance to county design criteria, as applicable, and for general protection of county facilities as considered necessary.

(I) Inspection by the county under this section will be cursory only and will not relieve the owner, contractor or engineer of responsibility for the project being completed according to plans and specifications. ('90 Code § 5.10.220) (Ord. 126, passed 1976; Ord. 826, passed 1995)

§ 27.054 ROAD VACATION APPLICATION.

A request for a preliminary feasibility study for possible vacation of a county road shall require a non-refundable fee as set by Board resolution. Each filing of a county road vacation application shall be accompanied by a deposit of 120% of estimated costs based on the estimated hours or parts thereof required to investigate and process the petition. The minimum fee shall be as set by Board resolution plus an additional fee for the county surveyor to post the street vacation as required by ORS 271.230(2). This does not include any recording fee collected by the county clerk. The final fee will be determined at completion of the project based on actual costs incurred by the county, including overhead and other related costs. The difference between the actual costs and the deposit, for deposits exceeding that amount established by Board resolution, will be billed or refunded to the applicant. An approved county road vacation shall not be recorded until any additional amounts are paid.
('90 Code § 5.10.225) (Ord. 126, passed 1976; Ord. 195, passed 1979; Ord. 826, passed 1995)

§ 27.055 STREET AND ROAD WIDENING PERMITS.

(A) The county will prepare a preliminary engineer's estimate outlining the scope of the work to be performed and the estimated cost. The deposit schedule will be determined from the engineer's estimated construction cost.

(B) The construction permit deposit schedule for engineering, design, project management, and administration shall be as set by Board resolution.

(C) The resulting fees are intended to reflect reasonable costs incurred in designing, estimating, surveying, coordinating utility problems, inspecting,

installing or relocating traffic controls and guides and normal administrative costs. The fee is a deposit only. The actual charges will be based on actual costs including overhead and other related costs, final fee will be determined at the completion of the project. The difference between the actual costs and the deposit will either be billed or refunded to the permit holder.
('90 Code § 5.10.230) (Ord. 126, passed 1976; Ord. 545, passed 1986; Ord. 826, passed 1995)

§ 27.056 MISCELLANEOUS PUBLIC WORKS FEES.

For services provided by the department in connection with design, plan review and inspection of items not set forth elsewhere, the department shall charge fees sufficient to cover the actual cost of services. The deposit amounts shall be as set by Board resolution. The actual charges will be based on actual costs including overhead and other related costs, determined at the completion of the project. The difference between the actual costs and the deposit will either be billed or refunded to the permit holder.
('90 Code § 5.10.235) (Ord. 126, passed 1976; Ord. 826, passed 1995)

§ 27.057 BONDING.

To the extent provided by law or where not prohibited by law, a bond shall be required for all work done within county road rights-of-way to meet such requirements and in such amounts as determined by the director.
('90 Code § 5.10.240) (Ord. 126, passed 1976)

§ 27.058 RECIPROCAL AGREEMENTS.

Fees prescribed in this subchapter shall not be collected from governmental bodies having reciprocal agreements with the county, the provisions of which prohibit or permit waiver of the collecting of those fees.
('90 Code § 5.10.245) (Ord. 126, passed 1976)

§ 27.059 ZONE REVIEW AND ZONING INSPECTIONS.

For conducting any zone review prior to the issuance of a building or mobile home permit, the department shall charge a fee as set by Board resolution. Zoning review fees are payable upon permit application. For conducting any zoning inspection during construction or after completion of construction, the department shall charge a fee as set by Board resolution, to be collected at the time the permit is issued. Zoning inspection fees are payable upon permit issuance.
('90 Code § 5.10.255) (Ord. 126, passed 1976; Ord. 195, passed 1979; Ord. 278, passed 1981; Ord. 378, passed 1983; Ord. 467, passed 1985)

§ 27.060 FILING OF MAP SURVEYS.

Each filing of a map of survey shall be accompanied by a fee as set by Board resolution.
('90 Code § 5.10.265) (Ord. 290, passed 1981; Ord. 378, passed 1983; Ord. 467, passed 1985; Ord. 680, passed 1991; Ord. 826, passed 1995)

§ 27.061 FEES FOR CERTAIN DOCUMENTS; PUBLIC LAND CORNER PRESERVATION ACCOUNT.

(A) *Findings.* The state legislature has authorized the creation of a public corner restoration fund.

(B) *Documents subject to fee.* In addition to any other fees required by law, there will be a fee in an amount set by Board resolution charged for all of the following instruments, however, the fee will not be imposed for the re-recording of any instruments specified in this section:

(1) Deeds and mortgages of real property, powers of attorney and contracts affecting the title to real property, authorized by law to be recorded, assignments thereof and of any interest therein when properly acknowledged or proved and other interests affecting the title to real property;

(2) Certificates of sale of real property under execution or order of court, or assignments thereof or of any interest therein when properly acknowledged or proved; and

(3) Certified copies of death certificates of any person appearing in the county records as owning or having a claim or interest in land in the county.

(C) *Document list and appeal.* The county surveyor shall prepare a list of documents which are subject to the fee. In addition, the county surveyor may review any document presented for recording to determine whether it properly comes within the terms of division (B) of this section. The decision of the county surveyor may be appealed in writing to the director. Such appeal must be filed within 14 days and state the grounds for appellant's position that the fee should not be charged. The decision of the director is final.

(D) *Public land corner preservation fund.* All fees collected pursuant to division (B) of this section will be deposited to the credit of the public land corner preservation fund for use only to pay expenses incurred or authorized by the county surveyor in the establishment, reestablishment and maintenance of the corners of government surveys under ORS 209.070(5) and (6).
('90 Code § 5.10.270) (Ord. 496, passed 1986; Ord. 563, passed 1987; Ord. 715, passed 1992)

§ 27.062 COUNTY SURVEYOR FEES.

(A) Fees are based on the following procedures and requirements on partition, subdivision and condominium plats.

(1) Submit a boundary survey to the county surveyor a minimum of 30 days prior to the submission of the final subdivision or condominium plat. If warranted, the county surveyor may waive this requirement.

(2) In addition to the requirements of ORS 209.250, a survey, and a partition plat if a separate survey has not been filed, shall show all obvious encroachments or hiatus created by deeds, buildings, fences, cultivation, previous surveys and plats, or similar means and any other conditions that may indicate that the ownership lines as surveyed may be different than those shown on the survey.

(3) The county surveyor may refuse to approve a plat if the Surveyor finds an encroachment or hiatus. Evidence that the hiatus or encroachment has been eliminated may be required, or the county surveyor may require that it be shown on the plat if it cannot be eliminated.

(4) All partition, subdivision, and condominium final plats, including those inside city limits, shall be checked and approved by the county surveyor prior to recording. No plat shall be recorded without such approval. This approval by the county surveyor shall be valid for 30 days from the date of approval to the date submitted for recording. After 30 days the approval is withdrawn and must be resubmitted.

(5) All partition, subdivision, and condominium final plats submitted for approval shall be accompanied by a report, issued by a title insurance company, or authorized agent to perform such service in the state, setting forth ownership and all easements of record, together with a copy of the current deed and easements for the platted property, and copies of the deeds for all abutting properties and other documentation as required by the county surveyor. The report shall have been issued no more than 15 days prior to plat submittal to the county surveyor. A supplemental report may be required by the county surveyor.

(B) Deposit for other county surveyor functions, in amounts as set by Board resolution, shall be made with the submission of the material. The final fee will be determined at completion of the project based on actual costs incurred by the county, including overhead and other related costs. The difference between the actual costs and the deposit will be paid prior to approval of the final plat or refunded to the applicant, except for post-monumented plats, which will not be refunded until after completion of the interior monumentation. The survey filing fee is non-refundable.
('90 Code § 5.10.275) (Ord. 645, passed 1990; Ord. 680, passed 1991; Ord. 843, passed 1995)

§ 27.063 TRANSPORTATION SYSTEMS DEVELOPMENT AND IMPROVEMENT.

(A) *Findings.*

(1) Traffic impact fees are a systems development charge as provided for in ORS 223.279 through 223.314 which fund new transportation system improvements in coordination with urban growth.

(2) The trafficway plan and impact fee study (DKS: November, 1993) establishes the basis for a traffic impact fee within the Urban Services Boundary of the cities of Gresham, Fairview, Wood Village, and Troutdale.

(3) The cities of Gresham, Fairview, Wood Village, and Troutdale are considering adopting a consistent traffic impact fee within their respective jurisdictions.

(4) Unincorporated properties are located within the urban services boundary which are subject to county land use and development control, and which may contribute additional traffic on the transportation system when developed, but which are not subject to traffic impact fees enacted by cities.

(5) New urban development can provide their proportionate share of revenue for future transportation improvement costs required to mitigate the impacts on the transportation system of additional traffic generated by such new development through a traffic impact fee.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context requires a different meaning.

CAPITAL IMPROVEMENTS. Facilities and assets used for transportation.

DEVELOPMENT. Any changes to improved or unimproved property including, but not limited to construction, installation or alteration of a building or other structure; condominium conversion, land division or mining activity which increases the usage of any capital improvement, or creates the need for additional capital improvements.

DIRECTOR. The director of the county transportation division.

IMPROVEMENT FEE. A fee for costs associated with capital improvements to be constructed after the date this section becomes effective.

LAND AREA. The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

OWNER. The legal owner of record as shown on the assessment and taxation records of the county, or where there is a recorded land sales contract in force, the purchaser thereunder.

PARCEL OF LAND. A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or another use, including the yards and other open spaces required under the zoning, subdivision or other development ordinances.

P.M. PEAK HOUR. The hour with the highest traffic count in the period from 4:00 p.m. to 6:00 p.m.

P.M. PEAK HOUR TRIP ENDS. The average vehicle trip ends on a weekday in the peak hour of adjacent street traffic for one hour between 4:00 p.m. and 6:00 p.m. as determined in the most recent edition of the Institute of Traffic Engineers *Trip Generation Manual.*

QUALIFIED PUBLIC IMPROVEMENTS. A capital improvement that is required as a condition of development approval, identified in the regional transportation capital improvements list, and either:

(a) Not located on or contiguous to property that is the subject of development approval; or

(b) Located in whole or part on or contiguous to property that is the subject of development approval and required to be built larger

or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

REIMBURSEMENT FEE. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted.

SYSTEMS DEVELOPMENT FEE. A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit or at the time of connection to the capital improvement. Systems development charge does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land decision.

TRANSPORTATION FACILITIES AND ASSETS. Public improvements on the transportation system which are capacity related.

(C) *Purpose.* The purpose of a systems development charge is to require that new developments of land which create the need for transportation facilities, or increase the demands on existing transportation facilities, pay a proportionate share of the capital improvement costs to improve the transportation system as identified in the regional transportation capital improvement list.

(D) *Improvement fees and credits.*

(1) *Establishing fees.* The methodology used to establish improvement fees shall consider the cost of projected capital improvements needed to increase the capacity of the transportation system, the number of vehicle trips generated by the development, and the impact of the development on the transportation system. The specific methodology for establishing the fee shall be adopted by resolution of the Board.

(2) *Use of fees.* Improvement fees shall be spent only on capacity enhancing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new or additional facilities. Improvements funded by traffic impact fees must be related to demands created by development.

(3) *Credits.* A credit shall be given for the cost of a qualified public improvement as identified on the Regional Transportation Capital Improvement List. The credit shall apply against the improvement fee charged for the type of improvement being constructed based on the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, latest edition. Credit for qualified public improvements under this section may be granted only for the cost of that portion of such improvement that exceeds county facility size or capacity standards needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this section.

(E) *Methodology; deferred application of credits.* When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project or, if there are no subsequent phases, a credit reimbursement claim should be made to the county within ten years of the date of development permit approval. Credits shall be used not later than ten years from the date the credit is given.

(F) *Challenge to expenditure.*

(1) A person challenging the propriety of an expenditure of system development charge revenues may appeal the decisions or the expenditure by filing a written request with the director describing with particularity the expenditure from which the person appeals.

(2) An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

(3) The director shall determine whether the expenditure is in accordance with this section and the provisions of ORS 223.297 through 223.314, and may affirm, modify, or overrule the decisions. If a determination is made that there has been an improper expenditure of systems development charge revenues, a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

(G) *Payment of system development charges.*

(1) System development charges shall be paid prior to the issuance of a development building permit.

(2) Charges shall be based on the estimated average p.m. peak hour trips that will be generated by the development as identified in the ITE *Trip Generation Manual*, latest edition.

(3) Alterations of single family dwelling structures shall be exempt from the system development charge. Alterations of other residential structures shall be exempt from the system development charge unless the director determines the alteration creates a need for transportation facilities or increases the demands on existing transportation facilities based on the estimated average p.m. peak hour trips.

(4) Any applicant whose design review application or single family building permit application is accepted by the county or its agents as being complete prior to the effective date of this section shall be exempt from paying the charge.

(5) The amount of the charge shall be set by Board resolution.

(H) *Payment of additional system development charges.* Except as provided in division (G)(3) of this section, additional system development charges shall be payable if an alteration, expansion, improvement, conversion, or operation of a building or use causes a change in the estimated number of trips generated. The estimated number of trips generated shall be the estimated average p.m. peak hour trips as identified in the Institute of Transportation Engineers *Trips Generation Manual*, latest edition. The amount of the charge shall be the difference between the charge based on the new estimated number of trips and the charge already paid, or the charge resulting from the difference between the new estimated number of trips and the estimated number of trips at the date of enactment of Ord. 802.

(I) *Transportation account.* System development charges shall be placed in a transportation account and segregated by accounting practices from all other funds of the county.
('90 Code § 5.10.280) (Ord. 802, passed 1994)

§ 27.064 BOOK OF RECORDS.

A fee shall be charged equal to the actual cost incurred by the department for preparing and providing diazo copies of the book of records as determined by the director. The minimum fee for such copies shall be set by Board resolution.
('90 Code § 5.10.120) (Ord. 105, passed 1975; Ord. 195, passed 1979)

§ 27.065 MAP REPRODUCTIONS AND LOANS.

For the services of the department in reproducing and loaning maps, fees shall be set by Board resolution.
('90 Code § 5.10.140) (Ord. 105, passed 1975; Ord. 195, passed 1979; Ord. 278, passed 1981)

§ 27.066 ASSESSMENT AND TAXATION FEES.

(A) For any printout or copy of an appraisal card for any tax account, the division of assessment and taxation shall charge a fee as set by Board resolution.

(B) For the division's services in gathering, preparing or providing nonstandard information upon request, the division shall collect a fee equal to its actual cost, as determined by the director of the division.

(C) In addition, the division shall charge as set by Board resolution for copies provided by it.

(D) For any check, draft or order of payment in money given to the division by any person in payment of taxes or fees for any service provided hereinabove, which check, draft or order of payment in money is dishonored for any cause, including but not limited to nonsufficient funds, closed account or no account, there shall be a fee assessed as provided at § 7.002. The fee is collectible by the division in any lawful manner, including but not limited to, addition of the fee to the payer's tax account, filing of appropriate proceedings pursuant to statute or such other means as may legally be pursued.
('90 Code § 5.10.160) (Ord. 105, passed 1975; Ord. 157, passed 1977; Ord. 195, passed 1979; Ord. 278, passed 1981; Ord. 380, passed 1983; Ord. 481, passed 1985; Ord. 699, passed 1991; Ord. 700, passed 1991; Ord. 791, passed 1994)

COUNTY REAL PROPERTY

§ 27.100 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

COUNTY PROPERTY. All real property owned or being purchased by the county, except tax foreclosed property, except property required for county right-of-way purposes, except property which under current zoning laws cannot be developed and has nominal value, and except property acquired for reconveyance under community development block grant and urban homestead programs.

DISPOSE OF. To sell, exchange, lease or to otherwise convey county property or any interest therein, other than to donate property.

DONATE. To transfer county property to another governmental entity for public use for no consideration.
('90 Code § 11.80.010) (Ord. 287, passed 1981; Ord. 527, passed 1986)

§ 27.101 DUTIES AND POWERS OF COUNTY EXECUTIVE.

The Chair shall do any and all things necessary and proper to manage county property, so that such property is put to its highest and best public use, is adequately maintained during the term of such use; and, if disposed of or donated, is disposed of or donated in the best interests of the citizens of the county.
('90 Code § 11.80.020) (Ord. 287, passed 1981)

§ 27.102 LIST OF COUNTY PROPERTY NOT NEEDED FOR PUBLIC USE.

The Chair shall routinely maintain and update a listing of county property which is not presently needed for public use. The list shall identify each parcel of property, state whether the property is available for disposition or donation, state whether the county is actively seeking disposition or donation, state the desired disposition or donation, and reflect any bona fide offers made to purchase parcels listed. The list shall be made available for public inspection. The list may be changed by the Chair from time to time. The Board shall be given actual notice of additions to or deletions from the list and of the particulars of any bona fide offers.
('90 Code § 11.80.030) (Ord. 287, passed 1981)

§ 27.103 POWERS OF BOARD.

The Board may, by resolution, add or subtract parcels of county property to or from the list, or specify a particular disposition or donation of such property.
('90 Code § 11.80.040) (Ord. 287, passed 1981)

§ 27.104 DIRECTION FROM BOARD.

If the Chair desires direction from the Board as to whether or in what manner to dispose of or donate county property, the Chair may place the matter on the Board's agenda in accordance with Board rules.
('90 Code § 11.80.050) (Ord. 287, passed 1981)

§ 27.105 PROPERTY NEEDED BY ANOTHER GOVERNMENTAL ENTITY.

Property needed for public use by another governmental entity may be donated, sold, leased, exchanged, transferred or otherwise conveyed to that governmental agency, subject to the limitations of ORS 271.330.
('90 Code § 11.80.060) (Ord. 287, passed 1981)

§ 27.106 DISPOSITION OF PROPERTY BY SALE, LEASE OR EXCHANGE.

All county property not disposed of or donated to another governmental agency may be disposed of by sale, lease or exchange pursuant to the provisions of ORS Chapters 271 and 275. County property which is to be disposed of by sale shall be first offered at public sale or auction, sealed bids, or any other commercially feasible manner. All property offered at public sale and not sold may thereafter be sold at private sale.
('90 Code § 11.80.070) (Ord. 287, passed 1981)

§ 27.107 DISPOSITIONS SUBJECT TO BOARD APPROVAL.

All dispositions or donations of county property shall be made subject to final Board approval.
('90 Code § 11.80.080) (Ord. 287, passed 1981)

§ 27.108 ADMINISTRATIVE RULES.

The Chair may by administrative rule promulgate a detailed administrative scheme to effect the provisions of this subchapter and ORS Chapters 271 and 275.
('90 Code § 11.80.090) (Ord. 287, passed 1981)

ART ACQUISITION

§ 27.200 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CONSTRUCTION or ***ALTERATION.*** Construction, rehabilitation, renovation, remodeling or improvement.

CONSTRUCTION COST. Actual construction cost, excluding engineering and administrative cost, cost for fees and permits, and indirect cost, such as interest during construction, advertising and legal fees.

COUNTY BUILDING. All county buildings except service facilities not normally visited by the public, such as maintenance sheds, bridges and similar structures, and does not include roads.

MAJOR COUNTY CONSTRUCTION PROJECT. A construction project which involves the construction or alteration of a county building with an estimated construction cost of $50,000 or more.
('90 Code § 11.90.010) (Ord. 222, passed 1980)

§ 27.201 POLICY.

It is the policy of the county that each major county construction project which involves the construction or alteration of county buildings shall have an appropriate display of art integrated into the project.
('90 Code § 11.90.020) (Ord. 222, passed 1980)

§ 27.202 FUNDING.

(A) One and thirty-three one-hundredths percent of the construction costs, capital improvement costs, budgets, development funds and purchase prices listed in § 27.203 of this subchapter shall be set aside for the acquisition of art. The acquired art may be an integral part of the newly acquired building or

property attached thereto or be capable of display in other public buildings or on other public property. Siting variances may be granted by the Board.

(B) Thirty-three one-hundredths percent of the 1.33% in division (A) of this section shall be dedicated solely for use by the regional arts and culture council for the purpose of payment of administration, public education, or maintenance costs of the commission's percent for art program.
('90 Code § 11.90.030) (Ord. 222, passed 1980; Ord. 654, passed 1990; Ord. 811, passed 1995)

§ 27.203 FUNDING SOURCES.

The following shall be subject to the art acquisition policy referred to in § 27.202 of this subchapter:

(A) Construction cost of a major county construction project involving the construction or alteration of a county building;

(B) The capital improvement budget in the division of facilities management;

(C) The purchase price of any building, including the appurtenant land, acquired by the county for use in whole or part by the county.
('90 Code § 11.90.035) (Ord. 654, passed 1990; Ord. 811, passed 1995)

§ 27.204 ADMINISTRATION.

The regional arts and culture council shall in its discretion administer the provisions of this subchapter relating to art acquisition and display.
('90 Code § 11.90.040) (Ord. 222, passed 1980; Ord. 811, passed 1995)

§ 27.205 ADOPTION OF GUIDELINES.

The regional arts and culture council shall have the authority:

(A) To determine the cases in which it would be inappropriate to display art in a county building;

(B) To identify suitable art objects for county buildings;

(C) To encourage the preservation of ethnic cultural arts and crafts, including Pacific Northwest indian arts;

(D) To facilitate the preservation of art objects and artifacts that may be displaced by a construction project;

(E) To prescribe a method or methods of competitive selection of art objects for display;

(F) To prescribe procedures for the selection, acquisition and display of art in county buildings; and

(G) To set forth any other matter appropriate to the administration of this subchapter.
('90 Code § 11.90.050) (Ord. 222, passed 1980; Ord. 811, passed 1995)

§ 27.206 COUNCIL'S DECISION FINAL.

The council's decision as to the selection, acquisition, allocation and display of art objects shall be final.
('90 Code § 11.90.060) (Ord. 222, passed 1980; Ord. 811, passed 1995)

SMOKING

§ 27.300 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

COUNTY FACILITY. An enclosed space that is owned, leased, or rented by the county. It includes but is not limited to buildings, portions of buildings, cars, and trucks.

SMOKING. Inhaling, exhaling, burning or carrying any lighted cigar, pipe, cigarette, weed, plant, or other combustible material in any form.
('90 Code § 8.80.115) (Ord. 181, passed 1979; Ord. 556, passed 1987; Ord. 567, passed 1987) Penalty, see § 27.999

§ 27.301 SMOKING PROHIBITED IN COUNTY FACILITIES.

(A) *Policy.* Smoking shall be prohibited in all county facilities, including but not limited to offices, hallways, waiting rooms, restrooms, lunch rooms, elevators, clinic areas, meeting rooms, and community work areas. The prohibition shall apply to all employees, clients, contractors, and visitors.

(B) *Procedures.* The Chair shall promulgate appropriate administrative rules to implement this section.

(C) *Exemptions.* The Hooper Detox Center, Mt. Hood Mental Health Clinic and all secure areas of MCDC, MCCF and the County Courthouse Jail are exempt from the nonsmoking policy.
('90 Code § 8.80.115) (Ord. 181, passed 1979; Ord. 556, passed 1987; Ord. 567, passed 1987) Penalty, see § 27.999

SALE OF SEIZED PERSONAL PROPERTY

§ 27.400 SALE FOR AMOUNT DUE.

The personal property tax collector or any designee shall first attempt at public auction to sell seized personal property for the taxes, interest and penalties due thereon.
('90 Code § 5.20.005) (Ord. 734, passed 1992)

§ 27.401 INSUFFICIENT BID.

(A) If no bidder at the sale offers to pay the amount due, the personal property tax collector may then attempt to sell the property at the same auction.

(B) The personal property tax collector shall sell the property at the auction if, based on the information available at the time, it is determined that:

(1) The county may incur significant costs to keep the property until a later sale;

(2) The county may not get the best possible price at a later sale.
('90 Code § 5.20.010) (Ord. 734, passed 1992)

AMMONIA EMISSIONS

§ 27.600 TITLE.

This subchapter shall be known as the Ammonia Emissions Law.
('90 Code § 8.85.005) (Ord. 366, passed 1983)

§ 27.601 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ENGINEER. The county engineer or the engineer's designee.

OVERFLOW PIPE or *VALVE.* An outlet from a storage tank through which ammonia which exceeds the tank's capacity is discharged.

STORAGE TANK. An aboveground storage facility for anhydrous ammonia which has a storage capacity of 15 tons or more.
('90 Code § 8.85.010) (Ord. 366, passed 1983)

§ 27.602 PURPOSE AND SCOPE.

(A) The purpose of this subchapter is to protect the public from ammonia overflows from aboveground storage tanks, occurring during the off-loading of ammonia in quantities which exceed tank capacity.

(B) This subchapter shall apply to any person who maintains and operates, within the unincorporated areas of the county, one or more storage tanks.
('90 Code § 8.85.020) (Ord. 366, passed 1983)

§ 27.603 FINDINGS.

(A) Anhydrous ammonia is a colorless gas or liquid chemical which is highly toxic to human beings. Exposure to gaseous ammonia emissions in air can cause irritation to eyes, skin or mucous membranes, or permanent physical injury or death, depending upon the volume of the emissions in air and length of exposure.

(B) The Board finds that gauges which measure the quantity of ammonia being off-loaded, and the assignment of one or more individuals at the overflow pipe or valve to observe whether the quantity being off-loaded is within the capacity of the tank, are not sufficient, separately or together, to avoid accidental overflows.
('90 Code § 8.85.030) (Ord. 366, passed 1983)

§ 27.604 PRESCRIBED SAFEGUARDS.

In addition to those safeguards described in § 27.603(B), any person covered by this subchapter is required to operate at all storage tanks for anhydrous ammonia, a system which in case of overflows during off-loading, automatically closes the overflow pipe or valve, and disengages the pump which generates the flow.
('90 Code § 8.85.040) (Ord. 366, passed 1983)

§ 27.605 PERMITS.

(A) A permit shall be required, upon payment of the prescribed fee, issued by the director, to maintain and operate any storage tank for anhydrous ammonia, whether in liquid or gaseous form. The fee for the permit shall be as set by Board resolution.

(B) Permits required under this section shall be obtained upon written application to the engineer, providing such information as may be required by the engineer to certify that the automatic shutoff system and other safeguards required by this subchapter have been installed and function according to the standards and specifications which the engineer may establish, as he deems reasonably necessary to carry out the purposes of this subchapter.

(C) The engineer may promulgate rules or regulations to carry out the purposes of this subchapter.

(D) No person shall operate a storage tank for anhydrous ammonia unless the person has obtained the permit required by this section.

(E) The director and the engineer shall have the authority to enter upon any premises where a storage tank is situated, for the purpose of testing and inspection, to determine whether there are safeguards against ammonia overflows which are prescribed by this subchapter and which meet the standards and specifications which the engineer may establish.

(F) Notwithstanding that the person has been issued a permit required by this subchapter, if the director or engineer finds, after inspection, that a storage tank operated and maintained by the person is without the safeguards prescribed by this subchapter or which does not meet the standards and specifications which the engineer may establish, the director shall give written notice of deficiencies and may direct such steps as are necessary to be done to secure conformance.

(G) A permit shall be effective for one year after issuance.
('90 Code § 8.85.050) (Ord. 366, passed 1983) Penalty, see § 27.999

§ 27.606 ADMINISTRATION AND ENFORCEMENT.

(A) Enforcement of this subchapter by the director may be by civil action, as provided in ORS 30.315, or by criminal prosecution, as provided in ORS 203.810, governing the prosecution of offenses under county law.

(B) The director may bring a civil action under ORS Chapter 30 to enjoin the operation of a storage tank which is without the safeguards prescribed by this chapter or which does not meet the standards and specifications which the engineer may establish.
('90 Code § 8.85.090) (Ord. 366, passed 1983)

SEWERAGE

§ 27.750 TITLE.

This subchapter shall be known as the Sewerage Law.
('90 Code § 8.70.010) (Ord. 440, passed 1984)

§ 27.751 SCOPE.

This subchapter shall apply to all public sewerage systems owned by any service district for which the Board acts as governing body under ORS 451.485. This subchapter shall apply to all commercial, industrial, residential, or other real property and any improvements, whether sewered or unsewered, which is located within the boundaries of one of the sewerage service districts or served by one of the sewerage service districts identified in § 27.754(C).
('90 Code § 8.70.020) (Ord. 440, passed 1984)

§ 27.752 RESPONSIBILITIES TO THE DISTRICT.

It shall be the responsibility of the property owner or discharger to comply with the following:

(A) Obtain all permits as required by this subchapter;

(B) Pay all fees as prescribed by this subchapter;

(C) Comply with all regulations set forth by this subchapter; and

(D) Notify the district of all changes in use and occupancy of the property and its improvements which will result in a change in the permitted discharge.
('90 Code § 8.70.030) (Ord. 440, passed 1984)

§ 27.753 PERMITS REQUIRED.

(A) A permit shall be required, upon payment of the fees described in this subchapter, issued by the director, for the performance of any of the following:

(1) To dig up, break into, excavate, disturb, dig under or undermine any street for the purpose of laying or working upon any sewer pipe, culvert or sewer or drain appurtenance or facility of any kind;

(2) To make connection with, obstruct or interfere with any public sewer, drain pipe or culvert;

(3) To cut or break into any public sewer, drain or culvert, whether or not at a service branch of a facility provided for connection; or

(4) To connect the blowoff or exhaust pipe of any boiler, steam engine or other pressurized facility with any public sewer or drain.

(B) Emergency repairs involving leakage or breakage in any pipe, sewer, drain or conduit, requiring immediate action, may be performed by any person licensed or certified to perform such work, without first obtaining a permit, provided appropriate permit applications, along with payment of prescribed fees are completed within 48 hours, excluding Sundays and holidays. All conditions which may be imposed by the permit, including correction of work already performed, shall be complied with.

(C) Any work performed without obtaining the required permit(s) and paying the prescribed fees must be an emergency which would constitute a hazard to humans, animals, or the environment, as determined by the engineer. Any person performing such work shall be required to obtain the appropriate permit applications and pay the prescribed fees within

48 hours, excluding Sundays and holidays. Work performed without permit shall be subject to the provisions of §§ 27.792 and 27.999.
('90 Code § 8.70.040) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.754 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

BOD. The abbreviation for biochemical oxygen demand, which shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of five days at a temperature of 20 degrees Celsius (as described in the current editions of the American Public Health Association publication, *Standard Methods for the Examination of Water and Wastewaters*, or the *Guidelines Establishing Test Procedures for the Analysis of Pollutants*, contained in 40 CFR 136 and amendments thereto).

COMMERCIAL OR INDUSTRIAL OCCUPANCY. Use of any structure or facility, including unimproved land, for the preparation, processing, treating, making, compounding, assembling, mixing, improving or storing of any product or any solid, liquid or gaseous material for commercial or industrial purposes or for the cleaning, processing or treating of tanks, vats, drums, cylinders or other containers used in transportation or storage of any solid, liquid or gaseous material for commercial or industrial purposes and includes all public eating places.

CONNECTION. The initial connection of a structure which is to be connected to the sewer, or a change in occupancy of an existing structure which is previously connected to the sewer system, which results in an increase in equivalent dwelling units, as determined under § 27.783.

CONNECTION FEE. A fee or charge for connection, or increased usage, of sewers and sewage purification systems. The connection fee is the property owner's contribution to past capital costs borne by the district in relation to the design, construction, acquisition, operation, maintenance, and discharge of contract requirements of the district for sewage treatment, disposal and purification. An owner desiring to connect a building to a sewer, or to increase the sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer causing an increase in equivalent dwelling units, as defined in § 27.783, shall pay the charges as outlined in § 27.788.

DEVELOPMENT.

(1) Construction of a building or an addition to a building, when the value of the construction work exceeds $10,000. Value shall be the value appearing on the building permit or as otherwise determined by the engineer.

(2) Construction of a mobile home space in a mobile home park or a recreational vehicle space in a recreation vehicle park.

(3) Installation of a mobile home park, except on temporary permit.

(4) A change in occupancy that results in increased discharge based on effluent control and volume, which determination shall be made by the engineer of the department of environmental services, or his or her designee.

(5) Installation of a subsurface sewage disposal system, including replacement of an existing system.

DISCHARGER. Any person who discharges wastes into the sewage treatment system.

DISTRICT. A sewerage service district governed by the county, consisting of the following sewerage service district: Dunthorpe Riverdale Service District No. 1.

DWELLING UNIT. Any housing unit with sanitary and kitchen facilities to accommodate one or more residents, including but not limited to detached residences, multiple housing units, condominiums, mobile homes and trailer spaces, but excluding any building containing six or more guestrooms intended or designed to be used, or which are used, rented, or

hired out to be occupied, or which are occupied for sleeping purposes by guests. For the purposes of this subchapter, equivalent dwelling units are defined in § 27.783.

ENGINEER. The county engineer or the engineer's agent.

EXTRATERRITORIAL. Areas beyond the district boundaries to which sewage treatment facilities are constructed by the district to serve the affected properties.

INDUSTRIAL WASTES. Wastes or wastewaters generated by industrial or commercial occupancy.

IN-LIEU USER CHARGE. A charge which is equivalent to the monthly sewer user charge.

MULTIPLE DWELLING UNIT. A building containing more than one dwelling unit where each unit is not served by a separate water account. This is intended to include one or more equivalent dwelling units in commercial buildings.

NEW DISCHARGE. Any discharge which commences on or after the effective date of the ordinance comprising this subchapter. Any discharge that was commenced prior to the effective date of this ordinance, but has not discharged into the sewer within the two years previous to the effective date of this ordinance will be considered as a new discharge if it is resumed on or after the effective date of this ordinance.

OPERATION AND MAINTENANCE. Activities of the district required to be carried out for the operation and upkeep of the sewage system including collection, trunk, and interceptor sewer lines, pump stations, and the sewage treatment facility. This term includes district expenses related to administration, financial and audit activities, insurance premiums, claims, legal and engineering services relating to operation and maintenance, staff training and education, utilities, operating supplies, office and equipment leasing, minor equipment and tool purchases, and payments and reserves for salaries, pensions and retirements, health, hospitalization and sick leave benefits, and vacation.

RENEWAL AND REPLACEMENT. Ongoing upkeep and repair of district sewer facilities and scheduled replacement of equipment, sewer facilities and sewer lines, as required to preserve the integrity of the existing capacity of the facility for the continued delivery of sewage services. Renewal and replacement includes emergency repairs and emergency facility replacement.

SENIOR CITIZEN RESIDENCE. Any dwelling unit occupied by a person or persons 65 years of age or over, whose annual income does not exceed those income levels set by Board resolution.

USER CHARGE. A monthly fee that is collected annually from properties connected to the district sewer system for the use of the sewer and sewage purification facilities. As such, user charges are established to cover expenses related to operations and maintenance, renewal and replacement, and may also include debt service payments on obligations of the district for the financing of capital improvements. ('90 Code § 8.70.050) (Ord. 440, passed 1984; Ord. 469, passed 1985)

§ 27.755 RECORDS RETENTION.

All users that are discharging matter which requires monitoring shall, as a condition of obtaining the permit, retain and preserve for no less than three years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a discharger in connection with its discharge. All records which pertain to matters which are subject to any enforcement or litigation activities brought by the district pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
('90 Code § 8.70.060) (Ord. 440, passed 1984)
Penalty, see § 27.999

§ 27.756 DISPOSITION OF FUNDS.

All moneys collected under the authority of this subchapter shall be credited to the service district sewage fund, and any refunds shall be made from that fund.
('90 Code § 8.70.070) (Ord. 440, passed 1984)

§ 27.757 REFUNDS.

In the event an error is found to have occurred in charging or billing sewer user service charges, refunds of sewer user service charges collected in error shall be authorized to persons who have paid them, upon approval of the engineer.
('90 Code § 8.70.080) (Ord. 440, passed 1984)

§ 27.758 PROPERTY OUTSIDE THE district; DETERMINATION.

In determining whether any residential or business, industrial, commercial, institutional or other or similar properties are to be considered within or without the district limits where the same are partially within and without, any property where 66⅔% or more of its assessed valuation is recorded in the records of the county assessor as lying beyond the district limits shall be considered wholly without the district for the purpose of sewer user charges.
('90 Code § 8.70.100) (Ord. 440, passed 1984)

§ 27.759 SEWER CONNECTION NOT A RIGHT; LATERAL CONNECTION CHARGES.

(A) Connection with a public sewer from property inside or outside the district limits under this subchapter shall be deemed temporary and to give no right to permanent connection regardless of lapse of time, and shall be subject to disconnection at the order of the engineer whenever the engineer finds that the property can be served by another sewer which has been designed or engineered to carry the sewer from the property. If a particular property is or has been directly assessed from an alternate sewer available to serve the property, and the property has been connected to an existing sewer with payment of a connection charge, then the current owner of the property will be eligible for refund of the appropriate amount of the connection charge, not to exceed what has been paid previous to the charge, without interest, upon application therefor. No refund shall be made unless the property has been directly assessed or unless direct payment has otherwise been made for a sewer and such amount placed on the county open lien docket within three years of the date of first connecting to the sewer.

(B) Whenever the engineer determines that laterals should be extended from any public sewer during its construction, or after its completion, and the cost of the lateral shall be borne by the property owner, the engineer is authorized to compute the cost of each lateral when constructed, including all portions thereof, such as wyes, stubs and risers as determined by the authorized amounts paid for the construction, plus 15% for the cost of engineering services, administrative charges, and to establish the lateral charge therefrom. The charge so determined shall be collected when a connection to the lateral is made in addition to any other sewer connection charges which may be required by this subchapter. This charge shall be collected prior to issuance of the sewer connection permit.
('90 Code § 8.70.110) (Ord. 440, passed 1984)

§ 27.760 SPECIAL PROVISIONS.

(A) Where there are several water supplies or various uses of water that would be eligible for credit under the various sections of this subchapter, upon approval of the engineer a discharge meter may be installed in lieu of several submeters. In all such cases, the owner or person in charge of the premises shall give the county inspectors the right of access at all reasonable times for the purpose of reading, inspecting or testing the meter or device and determining therefrom the amount of water reaching the sewer. Failure of the owner, a lessee, or others acting under the owner to maintain the meter in good working order constitutes a violation of this subchapter and during the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, or pending installation of a meter, the account may be billed on the basis of three times the normal water usage or in such an amount as deemed proper by the engineer.

(B) Sewer user service charges as provided in this subchapter shall be applicable to all wastewater discharges to the sewer system, regardless of the source. In unusual circumstances where the wastewater is not from a fixed location, such as ships, barges, houseboats and other moveable facilities or quarters, a method of determining the volume provided by the user shall be used if approved by the engineer. Otherwise, the engineer shall estimate the volume of water to which sewer user service charges shall apply and the engineer's determination shall be final. The rate of charge shall be the same as though the water originated from a local public or private source.
('90 Code § 8.70.120) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.761 METERS.

(A) Each and every meter that is used under provisions of this subchapter shall conform to this section, subject to the requirements of the water district involved. Any meters so used shall have the approval of the engineer as to type, size and location before installation. All meters shall register in cubic feet.

(B) Meters placed below the ground or pavement surface shall have the top of the meter not more than eight inches below the surface and shall be enclosed in a standard water meter box and cover. Meters located above the ground or floor level shall not be more than three and one-half feet above the ground or floor level.

(C) All meters shall be located in an area that is accessible at all times. The meter shall be so located that no locked door or gate shall be encountered by the engineer when inspecting the meter. No meter shall be located adjacent to dangerous machinery or structural hazard and the extent of the hazards shall be determined by the engineer.

(D) It is unlawful to install, change, bypass, adjust or alter any metering device or any piping arrangement connected therewith by which it would appear that the quantity of water reaching the public sewer is recorded as less than the actual quantity.

(E) Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water shall be connected in such a manner as to register only that portion of the water supply used for that purpose, and not used for sanitary purposes. In addition, a mechanical plan shall be submitted showing the location and capacity of the units served and location of all water supply piping and of discharges.

(F) Prior to installation of any meter, for the purpose of obtaining reduced sewer charges, the owner shall submit for approval by the engineer a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water using equipment, and the discharge point. No reduced sewer user rate or charge shall be given until the engineer has approved the plans and the installation. When the cooling water or product water comes from a supply used for other purposes and a meter or other method of determining the volume so used is installed as above, the administrative or special meter charge for each such meter shall be determined by the engineer. All meters used to obtain a reduced sewer user charge shall conform to the provisions of § 27.760.

(G) The failure to repair a defective meter within 30 days after notice from the district that the meter is defective, revokes the applicability of the special rate provided in this section. A sewer user charge shall be made at the rate based on water passing through the meter or bypass during those 30 days. The charge shall continue in effect until such time as the owner or person in charge of the premises formally notifies the engineer that the meter has been repaired. The estimate of water consumption through the meter by the engineer shall be final.

(H) For commercial and industrial occupancies that are required by the district to meter their water use, and where water is supplied solely from private sources such as wells, springs, rivers or creeks, or forms a partial supply in addition to that furnished by public water systems, the private supply shall be metered, and any meters so used shall conform to the provisions of this subchapter. The owner or person in charge of the premises shall give the engineer the right of access at all reasonable times for the purpose of reading, inspecting or testing the meter or device

and determining the amount of water reaching the district sewer. Failure of the owner, lessee or others acting for the owner, to maintain the meter in good working order, constitutes a violation of this subchapter and during the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the basis of three times the normal water usage or in such an amount as considered proper by the engineer.
('90 Code § 8.70.130) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.762 CRITERIA FOR EXTRATERRITORIAL SEWER MAIN EXTENSIONS.

(A) All extraterritorial extension sewers which do not flow into the district or basin by gravity are temporary.

(B) All mains, lateral sewers, pump stations and pressure lines shall be constructed to the county Plumbing Code, state Plumbing Code, and state Department of Environmental Quality standards. Plans and specifications shall be subject to their approval as well as those of the district designated to serve the basin where the lines are to be located. All related costs are the responsibility of the developer.

(C) Extraterritorial connections will be dedicated to the use of the public and be subject to standard district connection fees. If a portion of the connection fee is dedicated for line construction cost it may be waived by the engineer if the connection is made to a line or lines not financed by the district.

(D) Cost of operation and maintenance of pumping facilities and pressure lines necessary for the extraterritorial extension are the responsibility of the developer and must be guaranteed by the developer.

(E) Sewer users connected to an extraterritorial extension shall pay the standard sewer user charge collected from users within the district, in addition to fees described in division (D) of this section.

(F) Upon construction of the main sewer system for the basin where a temporary system is located, any temporary connection shall be discontinued and the extraterritorial collection system shall become a part of the collection system of its own basin. No fees or charges made with respect to this sewer extension shall be refundable.

(G) Lines constructed within another district or city shall become the property of that entity.
('90 Code § 8.70.140) (Ord. 440, passed 1984) Penalty, see § 27.999

Cross-reference:

County Plumbing Code, see Chapter 29

§ 27.763 SEWAGE DISPOSAL AGREEMENTS.

(A) The engineer shall have authority to enter into sewage disposal agreements for and on behalf of the district with any sanitary or sewage district or governmental agency authorized to contract on behalf of property outside the district, and to provide for payments to the district by the agencies instead of payments by individual property owners or occupants. Bonds or other securities may be waived by the engineer in agreements provided for in this section. All other provisions of this code applicable to sewer connections or sewer use or to agreements with individual property owners shall remain in full force and effect.

(B) The engineer shall have authority to enter into agreements for and on behalf of the district permitting connection and providing for sewerage service when the engineer finds such service feasible and appropriate. The engineer shall have authority to conduct an investigation in connection with the application of any business, industry, commercial plant, institution or similar use of property to connect with a public sewer under district control. The engineer shall have authority to require the construction of adequate pretreatment or other facility and pretreatment or handling of sewage before the same may be placed in the sewer. The engineer shall have authority to fix maximum strength and exclusionary requirements deemed necessary in order that the operation of the sanitary sewage disposal

system may be adequately protected and pollution not increased. All lateral or lead sewers to be connected by authority of this division shall be first approved by the engineer as to design and location.

(C) Any person entering into an agreement with the district for sewage disposal under the authority of this subchapter shall, at the time of entering into such an agreement, post a cash or approved surety bond in a sum to be determined by the engineer, based upon the estimated amount of sewage to be placed in the sewer. The bond shall be deposited with the appropriate service district.
('90 Code § 8.70.150) (Ord. 440, passed 1984)

§ 27.764 GENERAL DISCHARGE REGULATIONS AND LIMITATIONS.

No person shall discharge, permit the discharge, or permit or authorize a connection which will result in the discharge of the following:

(A) Sanitary sewage into a public sewer which has been designated by the engineer exclusively for storm drainage;

(B) Storm drainage or uncontaminated water used for refrigeration or cooling purposes into a public sewer which has been designated by the engineer exclusively for sanitary sewage;

(C) Gasoline, benzene, naphtha, alcohols, fuel oil or other toxic, flammable or explosive liquid, solid or gas, into a public sewer, unless by emergency order of the engineer;

(D) Solid or viscous substances capable of obstructing sewage flow or interfering with the operation of the sewage works or treatment facilities, including but not limited to, ashes, cinders, sand, mud, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wastes, lard, tallow, baking dough, chemical residues, paint residues, cannery waste bulk solids, hair or fleshings, plastic or paper dishes, cups or food or beverage containers, in any form;

(E) Any noxious, malodorous, toxic or poisonous substance, gas, liquid or solid, which by itself, or upon interaction with other wastes, may create a hazard to the public or to persons entering a sewer facility;

(F) Waters or wastes containing substances in sufficient quantity, as defined in the table set for in division (G) of this section, that they inhibit or interfere with the operation or performance of any sewage treatment process, are not amenable to treatment or reduction by the sewage treatment process employed, or are only partially amenable to treatment such that the sewage treatment plant effluent cannot meet the requirements of any agency having jurisdiction over its discharge to the receiving waters or that prevents the use or disposal of sewage treatment plant sludge in accordance with applicable state and federal regulations;

(G) Any water or waste containing a hazardous or toxic substance in sufficient quantity, as specified in the table set forth in this section, either singly or by interaction with other substances, to injure or interfere with any sewage treatment process; to constitute a hazard to humans, animals, or the environment; or to create a hazard in, or adversely affect the receiving waters; or result in unacceptable concentrations of these substances being discharged in combined sewer overflows or sewage treatment plant effluent. Liquids containing copper, zinc and similar toxic substances at the point of discharge to the sewer or in combination with the total sewage treatment plant flow, shall not exceed the limits in table 1 unless the discharger has an effective industrial waste discharge permit which establishes a different limitation for the specific pollutant.

[Table begins on next page.]

Chemical	*Entry to Sewer (mg/l)*	*Receipt at Plant (mg/l)*
Ammonia	50.0	5.0
Arsenic	1.0	0.3
Cadmium	1.0	0.3
Chlorinated hydrocarbons	0.5	—
Chlorine demand not to exceed	20.0	5.0
Chromium (total)	5.0	1.0
Copper	2.0	0.3
Cyanide	1.0	0.2
Iron	10.0	2.0
Lead	2.0	0.2
Nickel	3.0	0.5
Phenols or cresols	1.0	0.3
Sulfate	500.0	—
Sulfide	50.0	—
Zinc	4.0	1.0
Total oil and grease	100.0	—

(H) Any wastes, wastewaters or substances having a pH less than 5.5 or more than 10.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewer system. This includes, but is not limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine;

(I) Any liquid or vapor having a temperature higher than 65 degrees Celsius (149 degrees Fahrenheit) or which contains heat in amounts which will inhibit biological activity, resulting in interference at the treatment plant. In no case shall there be heat in such quantities that the temperature of the treatment plant influent exceeds 27 degrees Celsius (80 degrees Fahrenheit);

(J) Any substance which may solidify or become discernibly viscous at temperatures above zero degrees Celsius (32 degrees Fahrenheit);

(K) Any garbage or waste that has not been properly commuted to 0.65 centimeters (¼ inch) or less in any dimension;

(L) Any slugload, which means any pollutant, including oxygen-demanding pollutants (BOD, and the like), released in a single discharge episode of such

volume or strength as to cause interference to the sewer system;

(M) Any substance with a color of undesirable intensity which is not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(N) Any substance which may cause the sewer treatment plant's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case shall a substance discharged to the sewer system cause the district to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Clean Water Act (33 USC 1345); any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act (42 USC 6901), the Clean Air Act (42 USC 7401), the Toxic Substances Control Act (15 USC 2601), or state standards applicable to the sludge management method being used, or any amendments thereto);

(O) Radioactive wastes, except as may be discharged by permit issued by the State of Oregon department of environmental quality and approved by the engineer, and in compliance with the current Oregon Regulations for the Control of Radiation (OAR 333-22-150 or amendments thereto);

(P) Matter containing in excess of 100 milligrams per liter, or any lesser content as may be fixed by the engineer for particular occupancies, of fat waste, oil or grease, whether emulsified, ether soluble or n-hexane soluble matter;

(Q) Any matter which the engineer determines may impair the effective operation of the sewage treatment plant, including but not limited to the following causes:

(1) Concentrations of inert suspended or dissolved solids, including but not limited to fuller's earth, lime slurries or residues, sodium chloride, calcium chloride or sodium sulfate;

(2) Unusual biochemical demand; or

(R) Any matter the engineer determines will, alone or in combination with other water or waste in the system, release obnoxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, not be treatable or reducible by the sewage treatment processes available or not be sufficiently treatable to meet requirements of other agencies which have jurisdiction over waters to which treated sewage is discharged. The engineer shall make such a determination through the analysis of a waste sample provided by the discharger.
('90 Code § 8.70.160) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.765 NOTIFICATION OF DISCHARGE.

(A) Prior to beginning a new industrial waste discharge into the sewer system, the discharger shall notify the engineer of the discharge. The notification shall consist of the name and address of the discharger; the type of business or activity; and a brief description of the nature of the discharge, including an estimate of the flow and the type of pollutants in the waste.

(B) If an industrial waste discharge permit is required under § 27.771, the application for the permit shall serve as the required notification of discharge.

(C) It is unlawful for a person who has an effective industrial waste discharge permit pursuant to § 27.771 to discharge wastes to the sewer system in excess of the limitations established in the permit or in violation of the prohibited discharge limitations in § 27.764. The engineer shall establish industrial waste discharge permit limitations to the extent necessary to enable the district to comply with current national pollutant discharge elimination system categorical and general pretreatment standards and waste discharge requirements as promulgated by the U.S. Environmental Protection Agency and the state Department of Environmental Quality; to protect the receiving water quality; to protect the sewer system; and to comply with all other applicable federal and state laws. Existing and future pretreatment standards for existing and new sources promulgated by the Environmental Protection Agency under the authority of the Clean Water Act (33 USC 1251) along with

any future revisions or related legislative mandate, are incorporated herein by reference as a means of complying with federal and state pretreatment requirements and will be included as discharge limitations in industrial waste discharge permits issued to affected industries.
('90 Code § 8.70.170) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.766 INDUSTRIAL WASTE RESTRICTIONS.

(A) No industrial wastes shall be discharged into a public sewer or into a sewer discharging into the district sewer system unless prior approval of the engineer is obtained pursuant to the permit process established in § 27.771, if the industrial wastes have any of the following characteristics:

(1) A maximum instantaneous rate of flow exceeding 10% of the capacity of the available lateral or appropriate trunk sewer.

(2) Characteristics or constituents exceeding the maximum fixed in § 27.764.

(B) If any industrial wastes are discharged or are proposed to be discharged to a public sewer, which wastes contain the substances or possess the characteristics enumerated in division (A) of this section, or exceed the maximums set forth in § 27.764, and which in the judgment of the engineer may have a hazardous effect upon the sewage works processes, equipment or receiving waters, or which otherwise create a hazard to life or create malodors, the engineer may:

(1) Reject the waste;

(2) Require regulation of the quantities and rates of discharge; or

(3) Require payment of the extra-strength sewage charge prescribed in § 27.790.
('90 Code § 8.70.180) (Ord. 440, passed 1984)

§ 27.767 TESTING METHODS.

Methods to be used in determining the acceptability of sewage or wastewater, to meet the requirements of § 27.764(G) and (P) and § 27.766(A)(1) and (A)(2), and other provisions of this subchapter, shall be in accordance with the current edition of *Standard Methods for Examination of Water and Waste Water*, as published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.
('90 Code § 8.70.190) (Ord. 440, passed 1984)

§ 27.768 PRETREATMENT FACILITIES.

(A) If, as determined by the engineer, treatment facilities, operation changes or process modifications at an industrial discharger's facility are needed to comply with any requirements under this subchapter or are necessary to meet any applicable state or federal requirements, the engineer may require, at the owner's expense, that such facilities be constructed or modifications or changes be made within the shortest reasonable time, taking into consideration construction time, impact of the untreated waste on the sewer system, economic impact on the facility, impact of the waste on the marketability of the plant sludge, and any other appropriate factor, as proposed in this section.

(B) Any requirement in this section may, at the engineer's discretion, be incorporated as part of an industrial waste discharge permit issued under § 27.771, and made a condition of issuance of such permit or made a condition of the acceptance of the waste from such facility.

(C) Plans, specifications and other information relating to construction or installation of preliminary treatment facilities required by the engineer under this subchapter shall be prepared and submitted by the discharger to the engineer and to the state Department of Environmental Quality as required by state law. No construction or installation shall commence until written approval of plans and specifications by the engineer and the state Department of Environmental Quality are obtained. No person, by virtue of that approval, shall be relieved of compliance with other

laws or ordinances of the county and of the state relating to construction and to permits. Every facility for the preliminary treatment or handling of industrial wastes shall be constructed in accordance with the approved plans and specifications and shall be installed and maintained at the expense of the occupant of the property discharging the industrial wastes.

(D) Any occupant of property upon which a preliminary treatment facility is required, in accordance with divisions (A) and (C) of this section, shall comply with the installation requirement within six months from the date of written notice by the engineer. The engineer may extend the time for reasonable cause. If a preliminary treatment facility is not completed and placed in operation within the six months or period extended by the engineer, the engineer may order the operations to be terminated until the facility is placed into operation. During the period of construction of a preliminary treatment facility, no discharge in violation of §§ 27.764 and 27.766 shall be permitted.

(E) Every facility for preliminary treatment or handling of industrial wastes shall be subject to inspection by the engineer, without prior notice, who shall determine whether or not the facility is being maintained in effective operation. If the engineer finds that the occupant of property who controls a preliminary treatment facility fails to maintain that facility in effective operation, the discharger may be ordered to terminate operations until the facility is restored to effective operation or, in the discretion of the engineer, the untreated waste may be discharged into the system, provided, however, that a surcharge rate as provided in § 27.790 shall be imposed.

(F) Notwithstanding installation and operation of a preliminary treatment facility, no person shall discharge or permit the discharge into a public sewer of any waste prohibited under the provisions of this subchapter.

(G) Any person constructing a preliminary treatment facility, as required by the engineer, shall also install and maintain at his own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the preliminary treatment facility to the public sewer. The sampling manhole or monitoring access shall be placed in a location designated by the engineer and in accordance with specifications approved by the engineer.

(H) It is the responsibility of the owner or discharger to notify the district of any changes in occupancy or discharge which will result in a change of the matter to be treated by the sewage treatment facility.

(I) Any person operating a preliminary treatment facility as required by the engineer shall be responsible for sampling and testing of the discharge in order to ensure the required quality. This work shall be done by the person or organization, subject to approval of methods by the engineer, or it shall be performed by an approved testing company at the expense of the person or organization. Results of the testing shall be submitted at periods to be prescribed by the engineer, and copies of test results furnished to the engineer. This shall not preclude the engineer's right to take samples and to make tests without prior notice to the facility operation. Expenses for sampling and testing of discharge that the engineer considers necessary to make may be charged to the person or organization operating the facility.

(J) Any person operating a preliminary treatment facility who is found to be in noncompliance with this subchapter shall be subject to the penalties set forth in this chapter.
('90 Code § 8.70.210) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.769 INSPECTION AND SAMPLING.

(A) *Inspection.*

(1) *Inspection authorized.* Authorized district representatives may, upon providing district identification, inspect the monitoring facilities of any industrial waste discharger to determine compliance with the requirements of this subchapter. The discharger shall allow the district or its authorized representatives to enter upon the premises of the discharger at all reasonable hours, as defined division (A)(2)(c) of this section, for the purpose of inspection, sampling, or records examination. The

district shall also have the right to set up on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting or otherwise handling wastes, and storing records, reports or documents relating to the treatment, sampling, or discharge of the wastes.

(2) *Conditions for entry.*

(a) The authorized district representative shall present district identification at the time of entry.

(b) The purpose of the entry shall be for inspection, observation, measurement, sampling, testing or records examination in accordance with the provisions of this subchapter.

(c) The entry shall be made at reasonable hours, which are defined as normal operating or business hours, unless an emergency situation exists as determined by the engineer.

(d) All regular safety and sanitary requirements of the facility to be inspected shall be complied with by the district representative(s) entering the premises.

(B) *Sampling.*

(1) The engineer may sample or require sampling of wastewater being discharged into the sewer system. Such samples shall be representative of the discharge and shall be taken after treatment, if any, and before dilution by other water. The sampling method shall be one approved by the engineer and one in accordance with good engineering practice.

(2) Samples that are taken by district personnel for the purposes of determining compliance with the requirements of this subchapter shall be split with the discharger (or a duplicate sample provided in the instance of fats, oils and greases) if requested before or at the time of sampling.

(3) All sample analyses shall be performed in accordance with the procedures set forth in 40 CFR, part 136 and any amendments thereto or with any other test procedures approved by the Administrator of the Environmental Protection Agency. If there are no approved test procedures for a particular pollutant, then analyses shall be performed using procedures approved by the engineer and, if the discharge is subject to a categorical pretreatment standard, by the Environmental Protection Agency Administrator.
('90 Code § 8.70.220) (Ord. 440, passed 1984)

§ 27.770 REPORTING REQUIREMENTS.

(A) *Report on initial compliance with categorical pretreatment standards.*

(1) Within 180 days after the effective date of a categorical pretreatment standard issued by the Environmental Protection Agency or within 90 days after receiving notification from the engineer that such a standard has been issued, whichever is sooner, existing industrial waste dischargers subject to such standard shall submit to the engineer a report, as required by the Environmental Protection Agency general pretreatment regulations. The report shall be reviewed by an authorized representative of the discharger and certified to by a qualified professional. The report shall include the following:

(a) The name and address of the facility and the name of the owner and operator;

(b) A list of any environmental control permits on the facility;

(c) A description of the operation(s);

(d) The average and maximum daily flow;

(e) The levels of the particular pollutants that are regulated in the standard;

(f) A statement as to whether the applicable standards are being consistently met and, if not, what additional measures are necessary to meet them; and

(g) If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the needed pretreatment or operation and maintenance can be provided.

(2) New industrial waste dischargers subject to an effective categorical pretreatment standard issued by Environmental Protection Agency shall submit to the engineer, following the commencement of their discharge into the sewer system, a report which contains the information listed in divisions A(2)(a) through (e) of this section.

(3) These reports shall be completed in compliance with the specific requirements of section 403.12 of the General Pretreatment Regulations for Existing and New Sources (40 CFR part 403) promulgated by the Environmental Protection Agency on January 28, 1981, or any subsequent revisions thereto.

(4) If the information required in division (A)(1) of this section has already been provided to the engineer and that information is still accurate, the discharger may reference this information instead of submitting it again.

(B) *Periodic compliance reports.*

(1) Any discharger that is required to have an industrial waste discharge permit pursuant to § 27.771 shall submit to the engineer during the months of June and December, unless required on other dates or more frequently through written notification to the discharger by the engineer, a report indicating the nature of the effluent over the previous six-month period. The report shall include, but is not limited to, a record of the concentrations (and mass if limited in the permit) of the limited pollutants that were measured, and a record of all flow measurements that were taken. Additional reports shall be required only upon written notice from the engineer indicating the required reporting frequency.

(2) The frequency of the monitoring shall be determined by the engineer and specified in the industrial waste discharge permit. If there is an applicable effective federal categorical pretreatment standard, the frequency shall not be less than that prescribed in the standard.

(3) Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the engineer may accept reports of. average and maximum flows estimated by verifiable techniques.

(4) The engineer may require reporting by industrial dischargers that are not required to have an industrial waste discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

(5) The engineer may require self-monitoring by the discharger or, if requested by the discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section.

(a) If the engineer agrees to perform such periodic compliance monitoring, the engineer shall charge the discharger for the monitoring, based upon the costs incurred by the county for the sampling and analyses. Any such charges shall be individually billed by the Department of Environmental Services, Accounting Division, upon notification from the engineer.

(b) The engineer is under no obligation to perform the periodic compliance monitoring for a discharger.

(c) ***PERIODIC COMPLIANCE MONITORING*** is that monitoring which is necessary to provide the information on discharge quantity and quality required for the periodic compliance reports.

(6) Any discharger who fails to perform compliance monitoring or submit compliance reports as required by the engineer shall be subject to the penalties set forth in this chapter. Additionally, the engineer may perform periodic compliance monitoring at the discharger's expense.

(C) *Confidential information.*

(1) Any records, reports or information obtained under this subchapter shall be available to the public or any governmental agency without restriction, unless classified by the engineer as confidential. In order to obtain a classification of confidential on all or part of any record, reports or information submitted, the discharger shall:

(a) Submit a written request to the engineer identifying the material that is desired to be classified as confidential; and

(b) Demonstrate to the satisfaction of the engineer that records, reports or information, or particular parts thereof, if made public, would divulge a secret process, device or method of manufacturing or production entitled to protection as trade secrets of the discharger.

(2) Effluent data, as defined in 40 CFR 2.302, submitted pursuant to this subchapter shall not be classified as confidential.

(3) Records, reports or information or parts thereof classified as confidential by the engineer shall not be released or made part of any public record or hearing unless such release is ordered by a court of competent jurisdiction. However, such confidential information shall, upon written request, be made available to state or federal agencies having jurisdiction, duties or responsibilities relating to this subchapter, the national pollutant discharge elimination system or state waste disposal laws and regulations. Confidential information shall not be transmitted to any governmental agency by the engineer until and unless a ten-day written notification is given to the discharger and unless the governmental agency receiving the confidential information has procedures for safeguarding the information.
('90 Code § 8.70.230) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.771 INDUSTRIAL WASTE DISCHARGE PERMITS.

(A) *Requirement for a permit.*

(1) *Conditions requiring a permit.* Except as provided in division (A)(2) of this section, an industrial waste discharger must obtain an industrial waste discharge permit prior to discharging into the sewer system if:

(a) The discharge is subject to promulgated national categorical pretreatment standards;

(b) The discharge, as determined by the engineer, contains pollutants in concentrations or quantities that interfere or have the potential to interfere with the operation of the sewer system; has a significant impact or potential for a significant impact on the sewer system, either singly or in combination with other contributing industries; or increases the cost of operation of the system;

(c) The discharge requires pretreatment in order to comply with the discharge limitations in this subchapter; or

(d) The discharge has a maximum instantaneous flow which exceeds 10% of the capacity of the available lateral or appropriate trunk sewer.

(2) *Existing discharges.*

(a) Persons who have discharges that are in existence prior to the date that an industrial waste discharge permit is required shall be notified in writing by the engineer that such a permit is required. Such existing dischargers shall be allowed to continue discharging into the sewer system without an industrial waste discharge permit until a permit is issued or denied, provided the discharger files a completed application for an industrial waste discharge permit within 90 days of the receipt of the notice.

(b) Dischargers that require an industrial waste discharge permit and are allowed to continue discharging without such a permit under division (A)(2)(a) of this section shall comply with §§ 27.764, 27.765, 27.769, and 27.772.

(B) *Application for an industrial waste discharge permit.*

(1) Application for an industrial waste discharge permit shall be made to the engineer on forms provided by the Department of Environmental Services of the county. The application shall not be considered as complete until all information identified on the form is provided, unless specific exemptions are granted by the engineer.

(2) Completed applications shall be made within 90 days of the date requested by the engineer or, for new discharges, at least 90 days prior to the date that discharge is to begin. The required 90-day lead time for making application for a new discharge may be decreased by the engineer if requested by the applicant for good and valid cause.

(C) *Issuance of industrial waste discharge permits.*

(1) Industrial waste discharge permits will be issued or denied by the engineer within 90 days after a completed application is received.

(2) Industrial waste discharge permits shall contain conditions which meet the requirements of this subchapter as well as those of applicable state and federal laws and regulations.

(3) As provided in § 27.768, if pretreatment facilities are needed to meet the discharge requirements in the discharge permit, the permit shall require the installation of such facilities.

(4) Whenever a discharge permit requires installation or modification of pretreatment facilities or a process change necessary to meet discharge standards or spill control requirements, the discharger shall include a compliance schedule which establishes the date for completion of the pretreatment facilities or process changes and any appropriate interim dates to be approved by the engineer. Interim dates shall be no more than 180 days apart.

(5) Discharge permits shall expire no later than five years after the effective date of the permit.

(6) The engineer may deny the issuance of a discharge permit if, as determined by the engineer, the discharge will result in violations of local, state or federal laws or regulations; will overload or cause damage to any portion of the sewer system; or will create an imminent or potential hazard to humans, animals, or the environment.

(D) *Modification of permits.*

(1) An industrial waste discharge permit may be modified at the written request of the permittee and at the discretion of the engineer, for good cause.

(2) Permittee modification requests shall be submitted to the engineer and shall contain a detailed description of all proposed changes in the discharge. The engineer may request any additional information needed to adequately prepare the modification or assess its impact.

(3) The engineer may deny a request for modification if, as determined by the engineer, the change will result in violations of local, state or federal laws or regulations; will overload or cause damage to any portion of the sewer system; or will create a potential hazard to humans, animals, or the environment.

(4) If a permit modification is made at the direction of the engineer, the permittee shall be notified in writing of the proposed modification at least 30 days prior to its effective date and informed of the reasons for the changes. Any request for reconsideration shall be made before the effective date of the changes.

(E) *Change in a permitted discharge.* A modification to the permittee's discharge permit must be issued by the engineer before any increase is made in the volume or level of pollutants in an existing permitted discharge to the sewer system. Changes in

the discharge involving the introduction of waste stream(s) not previously included in the industrial waste discharge permit application or involving the addition of new pollutants shall be considered as new discharges, requiring application under division (B) of this section. It is the responsibility of the owner or discharger to notify the county of any changes in a permitted discharge.
('90 Code § 8.70.240) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.772 SPILL PREVENTION AND CONTROL.

(A) *Notification.* Any person becoming aware of spills or uncontrolled discharges of hazardous or toxic substances or substances prohibited under § 27.764 directly or indirectly into the sewer system, shall immediately report such discharge by telephone to the engineer.

(B) *Posted notice.* A notice informing employees of the notification requirement and containing a telephone number or individual to contact in the event of such a discharge as noted in division (A) above shall be posted in a conspicuous place, visible to all employees that may reasonably be expected to observe such a discharge. It is the responsibility of the discharger to post such notice.

(C) *Preventative measures.* Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of hazardous or toxic substances or substances prohibited under § 27.764 to enter the sewer system shall be eliminated, labeled or controlled so as to prevent the entry of wastes in violation of this subchapter. The engineer may require the industrial user to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial waste discharge permit or as a condition of continued discharge into the sewer system. A schedule of compliance shall be established by the engineer which requires completion of the required actions within the shortest reasonable period of time. Violation of the schedule without an extension of time by the engineer is a violation of this subchapter.

(D) *Operating upsets.* Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this subchapter or an industrial wastewater discharge permit issued pursuant to § 27.771 shall inform the engineer of the upset within 24 hours after the discharger knew or should have known or received constructive notice of the upset. Where such information is given orally, a written follow-up report shall be filed by the discharger with the engineer within five days. The report shall specify:

(1) Description of the upset, the cause thereof and the upset's impact on the discharger's compliance status.

(2) Duration of noncompliance, including exact dates and times of noncompliance and, if the noncompliance continues, the time by which compliance is reasonably expected to occur.

(3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

(E) *Spill prevention and control plans.*

(1) Industrial users that handle, store or use hazardous or toxic substances or substances prohibited under § 27.764 on their site shall prepare and submit to the engineer a spill prevention plan within 90 days of the effective date of this subchapter. The engineer may require periodic revision of the spill prevention and control plan as deemed necessary. The plan shall be directed at preventing the entrance of such substances, directly or indirectly, into the sewer system. It shall be available to the engineer upon request for inspection at the facility during normal business hours and shall include, but not be limited to, the following elements:

(a) A description of the hazardous substances handled and their potential points of entry into the sewer system;

(b) A description of the measures to be taken to prevent entry at the described points before a spill occurs;

(c) Measures to be taken to contain a spill if one occurs; and

(d) A description of employee training in the prevention and control of spills.

(2) A valid spill prevention plan required under the Federal Clean Water Act may be acceptable in lieu of developing a new spill prevention plan, provided the plan addresses adequately the elements required.

(3) The engineer may require revisions to an industrial waste discharger's spill prevention plan if the plan contains elements that are inadequate as determined by the engineer, or if the discharger has a spill or uncontrolled discharge of a hazardous or toxic substance or substance prohibited under § 27.764 into the sewer system.
('90 Code § 8.70.250) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.773 TERMINATION OR PREVENTION OF A DISCHARGE.

(A) *Conditions warranting termination or prevention.* The engineer may prevent a discharge or order the termination of a discharge into the sewer system if:

(1) The discharge or threatened discharge presents or may present a potential hazard to the health or welfare of humans, animals, or the environment, or threatens to interfere with the operation of the sewer system;

(2) The permit to discharge into the sewer system was obtained by misrepresentation of any material fact or by lack of full disclosure;

(3) The discharger violates any requirement of this subchapter or of an industrial waste discharge permit; or

(4) Such action is directed by a court of competent jurisdiction.

(B) *Notice.* Written notice of prevention of discharge or order of the termination of a discharge shall be provided to the discharger by the engineer prior to preventing or ordering the termination of the discharge.

(1) In situations that do not represent an imminent hazard to humans, animals, or the environment, or threaten to interfere with the sewer system, the notice shall be in writing; shall contain the reasons for the termination or prevention of the discharge, the effective date, the duration, and the name, address and telephone number of a district; shall be signed by the engineer; and shall be received at the business address of the discharger no less than 30 days prior to the effective date of termination.

(2) In situations where there is an imminent hazard to humans, animals, or the environment, or threatened interference with the operation of the sewer system, the engineer may immediately terminate an existing discharge or prevent a new discharge from commencing after providing informal notice to the discharger. Informal notice may be verbal or written and shall include the effective date and time and a brief description of the reason. Within three working days following the informal notice, a written formal notice as described in division (B)(1) of this section shall be provided to the discharger.

(C) *Cost recovery.*

(1) The engineer may recover all reasonable costs which result from enforcement of this subchapter.

(2) Notice and demand of such costs shall be by letter to the discharger; sent certified or registered mail, return receipt requested, which states the specific violation(s), the cost of damages and penalties sustained by the district, as determined by the engineer.

(3) The costs are due and payable by the discharger upon receipt of the letter. Nonpayment or disputes regarding the amount shall be referred for appropriate legal action to County Counsel.

(4) In addition to any other remedies authorized by law, the engineer may order the termination of a discharge for nonpayment of costs after 30 days to the discharger.
('90 Code § 8.70.260) (Ord. 440, passed 1984)

§ 27.774 APPLICATION FOR CONNECTION WORK PERMIT.

(A) Permits required by § 27.753 shall be obtained upon written application to the engineer, providing such information as may be required, including but not limited to the name of the applicant, date, name of the street in which work is to be performed, the purpose of the work, location of the pipe, main, sewer or conduit to be laid, examined, repaired or worked upon, as well as the location of the building or lot, if any, to be connected with the water, gas, steam or sewer pipe or conduit, and the number of days required for taking up and replacing the pavement or street surface.

(B) Connection applications for occupancy by other than commercial or industrial uses shall, in addition to information required under division (A) of this section, include the location and area to be drained.

(C) Applications to connect commercial or industrial occupancies shall, in addition to information required under division (A) of this section, include a description of the business, plat of the property, plans and specifications for any special installations and a description and time schedule of the character and quantity of waters and wastes to be discharged.
('90 Code § 8.70.270) (Ord. 440, passed 1984)

§ 27.775 CONNECTION TO EXISTING SYSTEMS.

Existing sanitary mains or systems to which any new connection is to be made shall be in a condition satisfactory to the engineer before connection approval and a permit shall be given. The engineer may require television recordings demonstrating the condition of the pipes before granting approval. Any additional mechanical equipment required to operate such system shall be in a condition satisfactory to the engineer.
('90 Code § 8.70.280) (Ord. 440, passed 1984)

§ 27.776 ISSUANCE OF CONNECTION WORK PERMITS.

Upon receipt of an application, payment of fees, posting of applicable bond which conforms to the bond requirements set forth in § 27.780, and review and approval by the engineer, a permit shall be issued to perform such work, subject to a determination that the public interest will not be impaired, and upon such restrictions and conditions as the engineer considers appropriate to protect the public safety, health and welfare.
('90 Code § 8.70.290) (Ord. 440, passed 1984)

§ 27.777 WORK REQUIREMENTS UNDER CONNECTION WORK PERMIT.

(A) *Conditions.* All work to be performed under a connection work permit shall be supervised by the engineer and shall comply with all applicable codes and regulations and with the following requirements:

(1) Work shall commence no later than 48 hours after issuance of the permit unless otherwise approved by the engineer, and shall be performed diligently and continuously to completion, with excavation refilled and pavement replaced as provided in this subchapter;

(2) Pipes, mains and sewers which are to run lengthwise in any street shall be located as prescribed by the engineer and all pipes and sewers for a house or lot connection shall lay at right angles to the curb, unless otherwise approved by the engineer;

(3) Construction within public rights-of-way shall conform to street standards and operational standards set forth in Chapter 29 of this code;

(4) Adequate barricades shall be installed and maintained around work and shall include OSHA approved lights and warning devices as may be required by the engineer;

(5) Commercial or industrial occupancy connections shall include installation of an eight-inch test and sampling manhole located just outside the property line, unless otherwise required to be located by this subchapter; and

(6) All other requirements as may be reasonably imposed by the engineer.

(B) *Expiration of permit.*

(1) Every permit issued under the provisions of this subchapter shall expire by limitation and become null and void if the work authorized by such permit is not completed within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained so to do, and the fee therefor shall be ½ the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

(2) Any permittee holding an unexpired permit may apply for an extension of the time within which the work may be commenced under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons.

(3) The engineer may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

(C) *Suspension or revocation of permit.* The engineer may, in writing, suspend or revoke a permit issued under the provisions of this subchapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this subchapter.
('90 Code § 8.70.300) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.778 RESTORATION OF WORK AREA AND MAINTENANCE OF STREET REQUIRED.

Any person to whom a permit has been issued, notwithstanding posting of any bond, shall immediately remove all surplus sand, earth, rubbish and other material and immediately restore to a condition satisfactory to the engineer, the portion of the street so disturbed, dug up or undermined, and shall keep the street in good repair at the person's own expense for a period of two years from the date the work is completed. Failure to do so shall constitute a violation of this subchapter and shall be subject to the penalties provided under this chapter.
('90 Code § 8.70.310) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.779 CONNECTION REQUIRED; IN-LIEU USER CHARGE.

An in-lieu user charge and mandatory sewer connection requirement shall be imposed for the purpose of ensuring repayment of costs resulting from construction of sanitary sewer facilities to the unsewered areas of the district, and to provide a guarantee that the necessary revenues will be collected by the district to meet its financial obligations for repayment of sewer construction costs.
('90 Code § 8.70.320) (Ord. 440, passed 1984)

§ 27.780 BOND REQUIREMENTS.

(A) Except as provided in division (B) of this section, applications for a connection work permit shall include an approved corporate surety bond of not less than $1,000, conditioned upon the immediate removal of all surplus sand, earth rubbish and other

forms of material and immediate replacement, to a condition satisfactory to the engineer, of that portion of any street so disturbed, dug up or undermined and the requirement that the permittee maintain that portion of a street in good repair at the permittee's own expense for a period of two years from the completion date of the work. A permittee may file annually a bond in the penal sum of $2,000 in place of a separate bond for each part of a street on which work is to be performed.

(B) Except as provided below, no bond shall be required for work to be performed by a person or firm licensed under ORS 454.695 who has on file with the Department of Environmental Quality a current bond as required under ORS 454.705. A bond will be required for any work, the value of which exceeds $2,500. The bond requirement shall apply only to work performed in the public right-of-way.
('90 Code § 8.70.330) (Ord. 440, passed 1984)

§ 27.781 STORM AND SANITARY SEWAGE SEPARATION REQUIRED.

Drainage from sanitary and storm sewers shall be separately conveyed and discharged into respective sanitary or storm systems. Where storm sewers are not available, storm waste shall be disposed of in a manner prescribed by the engineer which may include on-site disposal. At no time shall the storm drainage system be connected to the sanitary sewer system.
('90 Code § 8.70.340) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.782 BASIS FOR CHARGES.

The following charges for connection and use of a public sewer under district control, from properties either inside or outside the district, shall be based on front footage, lot area, or equivalent dwelling units.
('90 Code § 8.70.350) (Ord. 440, passed 1984)

§ 27.783 SEWER USER SERVICE CHARGES.

Sewer user service charges are established and made effective as follows:

(A) *Flat rate.* Except as otherwise provided in this subchapter, the rate of sewer user service charges against each and every lot, tract, or parcel of land using a public sanitary sewer, shall be according to the type of occupancy and except as otherwise provided in this subchapter shall be established for all dwelling units or equivalent dwelling units at a uniform flat rate.

(B) *In-lieu service charge.* An in-lieu user charge will be assessed pursuant to § 27.779, based on equivalent dwelling units as defined in the table in this section.

(C) *Rate set by resolution.* The rate of sewer user service charge against each and every equivalent dwelling unit, defined as follows in this section, shall be as set by Board resolution.

(D) *Pumps.* Where it is necessary for residential property owners to install a pump to transport the effluent from their property to the sewer line, the district shall, upon the property owner's request, credit the applicable connection fee in the amount of the cost of the pump. The owner must provide proof of payment for such pump at the time of application for the sewer connection permit in order to receive such credit. The owner shall be fully responsible for any expenses associated with pumping, pump maintenance, or pump repair or replacement.

(E) *Computing and billing of service charges.* The sewer user service charges provided in this subchapter shall be computed annually. The charges shall be certified annually, by the department of support services for inclusion with the annual individual property tax statements. Annual charges shall be based on the determination by the engineer of equivalent dwelling units, as defined in the table in this section. They shall be due and payable on the dates and at the places provided on the statement of property taxes. The monthly sewer service charge for existing occupancies will commence on the first of the month following date of connection. For new construction, charges will commence on the first day

of the third month following date permit is issued. The sewer user charges for new construction shall be computed and billed for the remainder of the fiscal year in which the sewer user charges commenced. Any uncollected charges shall be collected as described in § 27.785. The annual charge for any user shall be equal to the monthly rate per equivalent dwelling unit multiplied by 12, then multiplied by the number of equivalent dwelling units.

(F) *Industrial wastes.* Industrial wastes, as defined in § 27.754, and wastes from other occupancies not defined in the table in this section, shall be computed on the average monthly water consumption with allowance for usage not subject to a sewer charge, as determined by the engineer. However, where the equivalent dwelling units based on employee count would be higher, the employee count shall be used.

(G) *Charges for pumping.* Where it is necessary for sewage to be pumped to the treatment plant, as opposed to gravity flow, additional service charges may be assessed to cover the cost of pumping and maintenance of pump stations. In the absence of an agreement or contract, this charge shall be determined by the engineer, and shall be within a rate span established by Board resolution, depending upon the quantity and expenses involved. These charges shall apply only to nonresidential properties.

[Table begins on next page.]

Table of Equivalent Dwelling Units		
Occupancy	*Unit Measure*	*Equivalent Dwelling Units*
Single-family home	Each	1
Multiple-family dwellings	2 living units	1.6
Motels and transient hotels	2 rental units	1
Trailer and mobile home parks	2 rental spaces	1.6
Schools: Middle, high, college Elementary (grades 1-6)	 10 students 15 students	 1 1
Restaurants (full service)	6 seats	1
Hospitals, convalescence homes, and other institutions	2 beds	1
Sleeping accommodation without kitchens	2 sleeping rooms	1
Laundromats	3 washers	2
Buildings with industrial or other wastes not covered above (average monthly volume)	750 cubic feet per month	1
Industrial and commercial buildings without industrial waste	9 full-time employees or the equivalent	1
Churches without day care, preschools	Entire building	1
Churches with day care, preschools	Schools equivalent plus 1 EDU	—
Fast food restaurants without seating spaces	1,000 cubic feet per month	1
Houseboat moorages	2 spaces	1.6
Libraries	1,000 cubic feet per month	1
The minimum evaluation for any sewer connection shall be one equivalent dwelling unit. Any portion of an equivalent dwelling unit shall constitute a full unit.		

('90 Code § 8.70.360) (Ord. 440, passed 1984)

§ 27.784 SENIOR CITIZENS RATE.

(A) *Qualifications.* Any single-family unit occupied by a person or persons presenting satisfactory evidence of the head of the household being at least 65 years of age having an annual income not exceeding those income limits set by Board resolution, shall be charged an amount set by Board resolution per month for sewer use, based on the costs of serving this class. Applications shall be obtained from the department of support services and must be submitted annually.

(B) *Applications.*

(1) Applications for reduced sewer user service charges shall be on forms supplied by the district, filed with or mailed to the department of support services. All information required to be given on such form shall be supplied and verified by the applicant. Reduced sewer user service charges shall be granted qualifying applicants who file their applications prior to the certification of user charges to the property tax accounts. All qualifying senior citizens must submit new applications annually during the months of May and June in order for eligibility to be continued through the next fiscal year from July 1 through the following June 30. A change of address of a qualifying senior citizen terminates the special rate, but a new application by the qualifying senior citizen at his new address may be made and when approved, the reduced rate shall be allowed.

(2) Any unit of government or administrative agency thereof maintaining on a regular basis data covering the qualifications required by the district for reduced sewer user service charge for senior citizens 65 years of age and over pertaining to tenants of its property, is permitted to apply for reduced sewer user service charges on behalf of its tenants meeting such requirements, and to set forth the qualifications of those tenants without separate verifications.
('90 Code § 8.70.365) (Ord. 440, passed 1984)

§ 27.785 COLLECTION OF CHARGES.

Not later than 60 days, and not earlier than 90 days from the time for making the annual tax levy by the county, the department of support services, shall certify a statement of all unpaid fees and charges and all unpaid interest, specifying the appropriate levy code and property tax account number. The director of assessment and taxation shall extend on the assessment roll the unpaid charges which shall be collected in the manner provided by statute.
('90 Code § 8.70.370) (Ord. 440, passed 1984)

§ 27.786 SEWAGE REGULATION AUDIT.

If at any time it is determined, by the engineer, that the appropriate connection fees or sewer user charges have not been applied to a property connected to the sewer, a sewage regulation audit shall be conducted and any amounts due from or payable to the district shall be computed. An audit may be requested by the property owner. The audit shall be conducted for all years subsequent to the initial connection of the property to the sewer. Upon completion of the audit, the property owner shall be advised of any action required for collection or reimbursement. The property owner of record at the date of the audit shall be responsible for payment of fees and charges for all years covered by the audit. In the event of nonpayment by the property owner, the unpaid balance(s) shall become a lien against the property and shall be certified to the property tax account at the time of certification of the annual sewer user service charges, as described in § 27.783.
('90 Code § 8.70.380) (Ord. 440, passed 1984)

§ 27.787 RECORD OF CHARGES.

Sewer user service charges shall be a charge against the property served from and after the date of billing and entry on the ledger records of the department of environmental services. The ledger records shall be made accessible for inspection by anyone interested in ascertaining the amount of the charges against the property.
('90 Code § 8.70.390) (Ord. 440, passed 1984)

§ 27.788 CONNECTION FEES FOR EQUIVALENT DWELLING UNITS.

(A) Fees for connection with a public sewer inside or outside the district shall be as set by Board resolution.

(B) Where the equivalent dwelling units for a proposed connection (or change) cannot be determined in advance, or where the owner or applicant does not agree with the engineer's determination, where the occupancy is not adequately defined above, the owner shall post a cash or an approved surety bond in the amount required by the engineer. Within 2½ years after the new venture is in operation, the engineer shall determine the exact number of equivalent dwelling units, and shall determine the amount of the connection charges payable. Upon written notification from the engineer, the owner shall pay the connection charges required. If the owner does not pay charges within 60 days, the bond shall be declared forfeited upon certificate by the engineer. Forfeiture of the bond shall not relieve the owner from payments due.
('90 Code § 8.70.400) (Ord. 440, passed 1984)

§ 27.789 WASTEWATER SUBJECT TO SEWAGE CHARGES.

Sewer user service charges as provided in this subchapter shall be applicable to all wastewater discharged to the district sewer system regardless of the source. In unusual circumstances where the wastewater is not from a land location, such as ships, barges, houseboats and other movable facilities or quarters, a method of determining the volume provided by the user shall be used if approved by the engineer. Otherwise, the engineer shall estimate the volume of water to which sewer user service charges shall apply, and the engineer's determination shall be final. The rate of charge shall be the same as though the water originated from a local public or private source.
('90 Code § 8.70.410) (Ord. 440, passed 1984)

§ 27.790 EXTRA-STRENGTH INDUSTRIAL WASTE.

(A) *Limitations.* Industrial waste is subject to the extra-strength sewer charge if it has a biochemical oxygen demand (BOD) in excess of 300 milligrams per liter or a suspended solids concentration in excess of 350 milligrams per liter. The engineer may establish levels of other pollutants which are to be subject to extra-strength charges, the amount of the charges to be determined by the engineer. Payment of the extra-strength sewage charge does not relieve the discharger of responsibility for all other applicable provisions of this subchapter.

(B) *Basis of extra-strength sewage charge rates.*

(1) *Determination.* In the event that the concentration limits set forth in division (A) of this section are exceeded, the engineer may declare a violation of this subchapter or may impose additional extra-strength sewage charges, based on volume, as described below. To determine the charge rate, the engineer shall first assess the level of concentration of the extra-strength sewage in accordance with division (B)(2) of this section. The charge shall then be determined based upon the volume of the extra-strength sewage as set out in division (B)(3) of this section and established under division (D) of this section.

(2) *Concentration.* The concentration of each pollutant in excess of the limits specified in § 27.790 shall be used to determine the extra-strength sewage charge rate (dollars per 100 cubic feet) throughout the time interval between sample periods. The concentration shall be the average value of daily composite samples taken over a period of five days, except when another period is specified by the engineer. Samples shall be taken at an approved sampling manhole or other location adjudged by the engineer to be suitable so that samples will be representative. The rate of charge for each pollutant shall be as set by Board resolution.

(3) *Volume.* The volume used to bill the extra-strength sewage charge shall be the total metered water supply to the premises. However, where the industrial waste is discharged separately from domestic, product, or cooling waters, and the

industrial user provides a meter or other acceptable method of determining the quantity of water not subject to the extra-strength sewage charge, then an appropriate allowance for such other uses shall be made. The allowance for domestic sewage shall be 1,000 cubic feet per nine employees, unless this allowance is included in another measurement.

(C) *Other charge computations.* If effluent conditions make calculations by the composite method impossible or unrealistic, another method of sampling and computation acceptable to the engineer and based on the rates set by Board resolution may be implemented.

(D) *Extra-strength rates.* The rates shall be as established by Board resolution.

(E) *Industrial waste discharge permit fees.*

(1) The engineer shall determine the effective period for the permit, based upon such factors as concentration, volume, and origin of the discharge. In no case shall an industrial waste permit be effective for a period exceeding five years.

(2) Permit fees for industrial waste discharge shall be as set by Board resolution. Fees are payable to the county as part of the application for the permit or permit renewal.

(3) Where the owner of a property is discharging industrial wastes prior to the effective date of the ordinance comprising this subchapter, the owner shall be issued an industrial waste discharge permit at no charge, but will then be subject to the renewal fees and requirements of this section.

(F) *Minimal charges suspension.* The engineer may establish a minimum limit for monthly extra-strength charges. The billing for all accounts whose monthly extra-strength charges are below this minimum limit will be suspended until such time as they are found to be higher.

(G) *Adjustments.* The engineer may check sewage strength as outlined in this section and adjust charges where applicable at any time in accordance with the most recent analysis.

(H) *Resampling request; fees.* Any discharger may request the district to resample wastewater at no charge if 18 months or more have elapsed since the last such sampling. If less than 18 months have elapsed since the last sampling, then requests for the district to resample wastes shall be submitted in writing and accompanied by full payment for the resampling fee, in an amount set by Board resolution.

(I) *Termination or limitation.* Notwithstanding prior acceptance into the sewer system of industrial wastes under this section, if the engineer finds that industrial wastes from a particular commercial or industrial occupancy or a class of wastes from similar commercial or industrial occupancies cause or may cause damage to the sewer system; interference with the operation of the sewer system; or a nuisance or hazard to the sewer system, district personnel or the receiving waters; then the engineer may limit the characteristics or volume of the industrial wastes accepted under this section, or may terminate the acceptance. Notice of the limitation or termination shall be given in writing to the owner and to the occupant of the property involved and shall specify the date when the limitation or termination is to be effective. It is unlawful for any person to discharge or permit the discharge of industrial wastes in violation of this subchapter.
('90 Code § 8.70.420) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.791 LINE CHARGE.

(A) An owner desiring sewer connection and service by a private line or house branch directly to an existing public sewer of any size under district control, when the cost of such public sewer was not contributed to on behalf of applicant's property by assessment for direct service or its equivalent, shall pay a line charge. The line charge shall be a flat rate per front footage of property, or lot area, when the engineer determines that area is the more appropriate figure. If the property to be served is connected to the sewer more than three years after the sewer construction project was completed, the cost to connect shall be based on the average of sewer project cost over the three most recent construction years.

(B) Lots up to 50 feet of frontage shall be charged as 50-foot lots. Lots over 50 feet shall be charged as 50 feet plus 10% for each whole five feet additional frontage up to a maximum of 100 feet per equivalent dwelling unit. Front footage shall be considered equal to 1% of the lot area within 100 feet of the street or easement line of the sewer. Such street or easement line shall be considered as continuing 100 feet beyond the end of the sewer or beyond where the sewer turns away from the property.
('90 Code § 8.70.430) (Ord. 440, passed 1984)

§ 27.792 ENFORCEMENT; VIOLATIONS.

(A) *Violations.*

(1) A violation shall have occurred when any requirement of this subchapter has not been met; when a written request of the engineer, made under the authority of this subchapter, is not met within the specified time; when a condition of a permit or contract issued under the authority of this subchapter is not met within the specified time; when effluent limitations are exceeded, regardless of intent or accident; or when false information has been provided by the discharger.

(2) Each day a violation occurs shall be considered as a separate violation.

(B) *Notice of violation.* Upon determination by the engineer that a violation has occurred or is occurring, the engineer shall issue a written notice of violation to the discharger which outlines the violation and the potential penalty. The notice shall further request correction of the violation within a specified time or require written confirmation of the correction or efforts being made to correct the violation by a specified date. The notice shall be personally delivered to the discharger's premises or be sent certified or registered mail, return receipt requested.

(C) *Remedies under state law.* In the event that a person served with notice as provided by division (B) of this section fails to timely comply with it, the conduct in violation shall constitute a county offense under ORS 203.810.

(D) *Other legal action authorized.* To enforce any of the requirements of this subchapter, the director may, by first providing written notice of violation in accordance with division (B) of this section, gain compliance by:

(1) Causing appropriate action to be instituted in a court of competent jurisdiction; or

(2) Taking such other action lawfully available.
('90 Code § 8.70.450) (Ord. 440, passed 1984) Penalty, see § 27.999

§ 27.793 APPEALS.

(A) *Reconsideration by engineer.* A person aggrieved by any decision or determination of the engineer other than an estimate made final by the provisions of this subchapter, relating to charges for use of sewers or connections thereto, may appeal to the engineer, within ten days of notification of the determination, for reconsideration of such determination if there is reason to believe that sufficient data or information is available to support a different determination. The appeal shall be accompanied by the data or information the discharger used as a basis for the request. The engineer may then revise the initial determination or retain the original determination based upon the submitted appeal. The engineer shall notify the appellant of his decision within 30 days of receipt of the appeal.

(B) *Appeal to the director.* The aggrieved person may appeal the engineer's decision to the director within 30 days upon notification of the engineer's determination of the submitted appeal. The director shall review the data and information used by the discharger to support a different determination and shall respond to the appellant with a decision within ten days.

(C) *Appeal to governing body of the district.* If the discharger continues to disagree with the determination of the director, the discharger may present an appeal to the governing body of the district.
('90 Code § 8.70.460) (Ord. 440, passed 1984)

§ 27.794 OTHER LAWS APPLY.

This subchapter shall not be considered to eliminate the necessity of conforming to any and all federal, state, county and municipal laws, ordinances, rules and regulations, which now or in the future relate to the activities regulated by this subchapter.
('90 Code § 8.70.480) (Ord. 440, passed 1984)

§ 27.999 PENALTY.

(A) *Smoking violations.* Violation of § 27.300 of this chapter is punishable by a fine of $10. ('90 Code § 8.80.990) (Ord. 181, passed 1979)

(B) *Ammonia emissions violations.* The operation of a storage tank without the permit required by §§ 27.600 through 27.606 shall constitute a violation of this chapter, punishable in a civil action, or criminal prosecution upon conviction, by a fine not exceeding $10,000 for each day of operation without a permit. ('90 Code § 8.85.090) (Ord. 366, passed 1983)

(C) *Sewerage violations.* Violations of the sewerage subchapter, §§ 27.750 through 27.794, may result in assessment of a civil penalty in an amount up to $500 per day violation.
('90 Code § 8.70.450) (Ord. 440, passed 1984)

CHAPTER 29: BUILDING REGULATIONS

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BUILDING CODE

§ 29.001 TITLE; AREA OF APPLICATION.

This subchapter shall be known as the Building Code and applies to the unincorporated areas of the county.
('90 Code § 9.10.005) (Ord. 164, passed 1978)

§ 29.002 POLICY.

The Board has determined that it is necessary to provide for the regulation of building construction and administration of standards, including enforcement, of the state building code adopted by the state and that this subchapter is necessary for the protection of the public health, safety and general welfare of the residents of the county.
('90 Code § 9.10.020) (Ord. 164, passed 1978)

§ 29.003 ADOPTION OF STATE BUILDING CODE BY REFERENCE.

Those portions of the state building code constituting the structural specialty code, fire and life safety code, mechanical specialty code, and the one- and two-family dwelling specialty code, are adopted and by this reference incorporated as part of this subchapter. The provisions of this subchapter shall take precedence over the similar provisions of the state specialty codes.
('90 Code § 9.10.030) (Ord. 164, passed 1978; Ord. 256, passed 1980; Ord. 531, passed 1986; Ord. 583, passed 1988)

§ 29.004 BUILDING CODE BOARD OF APPEALS; MEMBERSHIP; DUTIES.

(A) There is created the county building code board of appeals whose function shall be to determine the suitability of alternate materials and types of construction and to provide for reasonable interpretation of this subchapter and §§ 29.200 through 29.207 of this chapter.

(B) The board of appeals shall consist of nine members who are qualified by experience and training to pass upon matters pertaining to building construction, which membership shall include the following occupations:

(1) State registered professional engineer (civil);

(2) State registered professional engineer (mechanical);

(3) State registered professional engineer (structural);

(4) State registered architect;

(5) General contractor;

(6) Home builder;

(7) Building designer;

(8) Plumber; and

(9) Fire protection specialist.

(C) Members shall be appointed by the Chair with the approval of the Board, and shall serve for the period provided at appointment.

(D) Any member of the board of appeals who fails to attend three consecutive meetings of the board of appeals, whether regular or special, shall, upon recommendation of a majority of the board of appeals members and approval of the Chair, forfeit their office. The Chair shall immediately appoint a successor.

(E) A quorum for the transaction of business shall consist of four members.

(F) The board of appeals shall adopt rules for the conduct of its business and shall render all findings and decisions in writing to the building official for the county, who shall cause a copy of a decision to be delivered to the applicant involved. ('90 Code § 9.10.040) (Ord. 164, passed 1978; Ord. 400, passed 1983)

Cross-reference:

Building code board of appeals to serve as plumbing code board of appeals, see § 29.203

§ 29.005 POWERS OF board of appeals.

The board of appeals may do the following:

(A) Provide interpretations of this subchapter;

(B) Determine the suitability of proposed alternate methods of construction;

(C) Determine the suitability of proposed alternate materials;

(D) Provide recommendations to the Board for such ordinances and rules as may be consistent with the purposes of this subchapter;

(E) Grant alternatives to provisions of this subchapter in specific instances where the board of appeals has determined to its satisfaction and by unanimous vote that practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of this subchapter may result from literal interpretation and enforcement of this subchapter. The board of appeals may impose such conditions and safeguards upon approval of alternatives as it determines are consistent with the general purpose, intent and spirit of this subchapter and which assure protection of the public safety and welfare;

(F) Grant temporary permits as provided by this subchapter; and

(G) Perform any other function assigned to it by ordinance, order, resolution or rule.
('90 Code § 9.10.050) (Ord. 164, passed 1978)

§ 29.006 DETERMINATION OF BUILDINGS AS UNSAFE.

Any building or structure which has any of the conditions or defects described in this section shall be considered unsafe, if the conditions or defects are found to endanger the life, health, property or safety of the public or the occupants. Any building or structure found to be unsafe under this subchapter is declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal. A building is unsafe whenever the building official determines:

(A) Any door, aisle, passageway, stairway or other means of exit is not in conformance with the building code effective at the time of construction.

(B) Stress in any structural materials or member or portion of a member, due to all loads, both vertical and lateral, is more than one and one-half times the working stress or stresses allowed by this chapter for new buildings of similar construction, purpose or location.

(C) Any portion has been damaged by fire, earthquake, wind, flood, deterioration or such other cause as to result in wracking, warping, buckling or settling of any portion of the structure so as to reduce structural strength or stability 33% or more for supporting members, or 50% or more for nonsupporting members, below the minimum strength requirements of current building code requirements.

(D) Any portion, or any member, appurtenance or ornamentation, either interior or exterior, is not of sufficient strength or stability, or is not anchored, attached or fastened in place securely and is therefore reasonably likely to fall, become detached or dislodged, or collapse and cause injury to persons or damage to property.

(E) Exterior or interior bearing walls or other vertical structural members list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall within the middle one-third of the base of the vertical component.

(F) Any building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facility, is determined to be unsanitary, unfit for human habitation or to be in such condition as would likely cause injury, sickness or disease.

('90 Code § 9.10.060) (Ord. 164, passed 1978; Ord. 195, passed 1979; Ord. 531, passed 1986)

Cross reference:

Nuisances generally, see §§ 15.225 through 15.236

§ 29.007 NOTICE TO OWNER OF UNSAFE BUILDING; CONTENTS.

(A) Upon determination by the building official that any building or structure is unsafe as provided in § 29.006 of this subchapter, the building official shall furnish to the owner and the person in charge of the building or structure, written notice of the determination and its basis. The notice shall require repair, improvement, demolition, removal or elimination of the causes creating the unsafe condition, which may include immediate vacation of the building, structure or any portion thereof, and shall also require the commencement within 48 hours of any work necessary to abate the nuisance and provide a completion date for that work.

(B) Service of the notice provided under division (A) of this section shall be as required for service of process by law, upon the owner of record, and if the owner is not found within the county, notice may be served by registered mail return receipt. If that service is ineffective, service may be had by publication as provided by ORS 15.120. The time prescribed for the unsafe building nuisance to be abated, as provided in division (A) of this section, shall commence to run upon service of notice or, in the case of service by publication, upon the first day of publication.

('90 Code § 9.10.070) (Ord. 164, passed 1978)

Cross-reference:

Unsafe buildings (electrical code), see § 29.103
Unsafe buildings (plumbing code), see § 29.204

§ 29.008 LIMITED USE OF UNSAFE BUILDING.

(A) Any building, structure or portion thereof vacated upon order of the building official shall not be reoccupied until the required corrections have been completed, inspected and approved by the building official.

(B) Posting of unsafe buildings shall be by appropriate displayed notice, as prescribed by the building official, at the entrance to the building and shall prohibit entry, occupancy or use to such extent as in the judgment of the building official is necessary under the circumstances. The notice shall remain posted until removal is authorized in writing by the building official. The building official may authorize entry by persons the building official considers necessary to effect abatement of the unsafe building nuisance.
('90 Code § 9.10.080) (Ord. 164, passed 1978)

§ 29.009 HEARING; ABATEMENT OF UNSAFE BUILDING NUISANCE.

Upon determination and notice to the owner that an unsafe building nuisance exists and failure or refusal of the owner to abate the nuisance, the building official shall cause the matter to be presented to the Board for the county for a hearing to show cause why an unsafe building nuisance should not be declared to exist and to order abatement of the nuisance. Notice of a hearing shall be served, not less than ten days prior to the hearing, upon the owner of the building and any person in possession in the manner prescribed by § 29.007(B) of this subchapter. After hearing and upon determination by the Board that a nuisance exists, the Board may order abatement of the nuisance and prosecution of the owner for violation of this subchapter. The Board's order shall constitute authority for the building official to proceed to abate the nuisance by performance of any specific act necessary, including entry upon the land and removal of the unsafe structure. Any expense incurred shall be authorized by the Board to be paid by the county, and the costs shall be levied against the real property and charged to its owner in the manner of, and collected as provided for, special assessments under ORS 311.255.
('90 Code § 9.10.090) (Ord. 164, passed 1978)

§ 29.010 FEES.

The fees as set by Board resolution shall apply under this subchapter in addition to those provided in the state building code. Where conflicts occur with fees provided in the state building code, the fees in this subchapter shall prevail.
('90 Code § 9.10.100) (Ord. 164, passed 1978; Ord. 195, passed 1979; Ord. 256, passed 1980; Ord. 278, passed 1981; Ord. 400, passed 1983; Ord. 467, passed 1985; Ord. 557, passed 1987; Ord. 583, passed 1988; Ord. 623, passed 1989; Ord. 728, passed 1992)
Cross-reference:
Fees for services of Department of Environmental Services, see Ch. 27

§ 29.011 PERMITS FOR TEMPORARY BUILDINGS OR STRUCTURES.

(A) In addition to those permits provided in section 302 of the Structural Specialty Code and Fire and Life Safety Code, the building official may approve permits for buildings or structures of a temporary nature, not to exceed 90 days. The board of appeals may approve the permits for periods in excess of 90 days, but not to exceed one year.

(B) Temporary buildings and structures shall comply with provisions of this subchapter only to the extent required by the building official or board of appeals as may be considered necessary to prevent injury to persons or damage to property and shall be consistent with the intent and purpose of this subchapter.
('90 Code § 9.10.110) (Ord. 164, passed 1978)

ELECTRICAL CODE

§ 29.100 TITLE; AREA OF APPLICATION.

This subchapter shall be known as the Electrical Code and applies to unincorporated areas within the county.
('90 Code § 9.20.005) (Ord. 425, passed 1984)

§ 29.101 POLICY.

The Board has determined that it is necessary, for the protection of the public health, safety, and welfare, for the county to adopt, administer and enforce the State Electrical Specialty Safety Code in unincorporated areas of the county.
('90 Code § 9.20.020) (Ord. 425, passed 1984)

§ 29.102 ADOPTION OF THE STATE OF STATE ELECTRICAL SPECIALTY SAFETY CODE BY REFERENCE.

Those portions of the state Building Code constituting the Electrical Specialty Code as authorized by ORS 479.730 and adopted by the Director of the Department of Commerce, pursuant to ORS 183.310 to 183.550, are adopted and by reference incorporated as part of this subchapter. The provisions of this subchapter shall take precedence over any similar provisions of the Electrical Specialty Safety Code.
('90 Code § 9.20.030) (Ord. 425, passed 1984; Ord. 584, passed 1988)

§ 29.103 DETERMINATION OF BUILDING AS UNSAFE.

(A) Any building, portion, or premises, used in conjunction, which has any of the described conditions or defects, shall be considered unsafe, if the conditions or defects are found to endanger life, health, property or safety of the public or occupants.

(B) A building is unsafe when any electrical wiring, appliance, devices or equipment within the scope of the Electrical Specialty Safety Code are found to exist in a dangerous or unsafe condition with the potential for creating electrical shock or fire hazard.

(C) The building official shall take whatever action necessary to cause the abatement of the unsafe condition, in accordance with the rules and procedures set forth in §§ 29.001 through 29.011 of this chapter.
('90 Code § 9.20.040) (Ord. 425, passed 1984)
Cross-reference:
Abatement of unsafe buildings, see § 29.007 et seq.

§ 29.104 APPLICATION FOR PERMIT.

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every application shall:

(A) Identify and describe the work to be covered by the permit for which application is made.

(B) Describe the land on which the proposed work is to be done by legal description or street address or similar description that will readily identify and definitely locate the proposed building or work.

(C) Be accompanied by plans, diagrams, computations or specifications and other data as required in this subchapter.

(D) Be signed by a general supervisor electrician, limited supervising manufacturing plant electrician, limited supervisor industrial electrician, or property owner, all who may be required to submit evidence to indicate such authority.

(E) Give such other applicable data and information as may be required by the building official.
('90 Code § 9.20.050) (Ord. 425, passed 1984)

§ 29.105 PLANS AND SPECIFICATIONS.

(A) A one-line electrical diagram, load summary and other data shall be submitted in a minimum of two sets with each application for a permit for

electrical wiring intended to supply a connected load of over 200 amperes or for installation of wiring in the following buildings or other development:

(1) A building of more than two stories in height, excluding single-family residences.

(2) Buildings with an aggregate ground area exceeding 10,000 square feet.

(3) Buildings with occupant loads of 300 or more persons.

(4) Trailer parks.

(B) Plans, engineering calculations and other data shall be submitted in two sets with each application for permit for a wiring system over 600 volts.

(C) Plans for installations with service voltage exceeding 600 volts shall bear the signature and seal of a state-registered professional engineer. All other plans shall bear the signature of the supervising electrician, registered for the electrical contractor submitting such plans or the signature and seal of a state-registered engineer.

(D) Exception: The building official may waive the submission of plans, calculations or other data if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.
('90 Code § 9.20.060) (Ord. 425, passed 1984)

§ 29.106 FEES.

(A) The fees under this subchapter shall be as set by Board resolution.

(B) *Refunds.*

(1) The building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

(2) The building official may authorize the refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this subchapter.

(3) The building official may authorize the refunding of not more than 80% of the plan review fee paid when an application for permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done.

(4) The building official shall not authorize the refunding of any fee except upon written application filed by the original permittee not later than 180 days after the date of fee payment.
('90 Code § 9.20.070) (Ord. 425, passed 1984; Ord. 482, passed 1985; Ord. 532, passed 1986; Ord. 558, passed 1987; Ord. 584, passed 1988)
Cross-reference:
Fees for services of department of environmental services, see §§ 27.001 et seq.

PLUMBING CODE

§ 29.200 TITLE; AREA OF APPLICATION.

This subchapter shall be known as the Plumbing Code and applies to unincorporated areas within the county.
('90 Code § 9.30.005) (Ord. 362, passed 1983)

§ 29.201 POLICY.

The Board has determined that it is necessary, for the protection of the public health, safety and general welfare, for the county to adopt, administer and enforce the state Plumbing Specialty Code in unincorporated areas of the county.
('90 Code § 9.30.015) (Ord. 362, passed 1983)

§ 29.202 ADOPTION OF THE STATE PLUMBING SPECIALTY CODE BY REFERENCE.

Those portions of the state Building Code constituting the Plumbing Specialty Code, as authorized by ORS 477.020 and adopted by the Director of the Department of Commerce, pursuant to ORS 183.310 to 183.550 and identified as OAR Chapter 814, are adopted and incorporated as part of this subchapter. The provisions of this subchapter shall take precedence over any similar provisions of the Plumbing Specialty Code.
('90 Code § 9.30.030) (Ord. 362, passed 1983; Ord. 585, passed 1988)

§ 29.203 PLUMBING CODE BOARD OF APPEALS.

(A) Anyone aggrieved by the final decision of the building official may appeal that decision to the plumbing code board of appeals.

(B) The building code board of appeals, established under §§ 29.001 through 29.011 of this chapter, shall also serve as the plumbing code board of appeals.

(C) The membership, duties and powers of the plumbing code board of appeals shall be as stated in §§ 29.001 through 29.011 of this chapter.
('90 Code § 9.30.040) (Ord. 362, passed 1983)
Cross-reference:
Building code board of appeals, see § 29.004 et seq.

§ 29.204 DETERMINATION OF BUILDINGS AS UNSAFE.

(A) Any building, portion, or premises, used in conjunction, which has any of the conditions or defects, hereafter described, shall be considered unsafe, if the conditions or defects are found to endanger life, health, property or safety or the public or occupants.

(B) A building is unsafe whenever unsanitary or dangerous conditions exist, due to improperly installed, poorly maintained, defective, damaged, incomplete, or malfunction of any piping, plumbing or sewage system.

(C) The building official shall take whatever action necessary to cause abatement of the unsafe condition in accordance with the rules and procedures set forth in §§ 29.001 through 29.011 of this chapter.
('90 Code § 9.30.050) (Ord. 362, passed 1983)
Cross-reference:
Nuisances, see §§ 15.225 through 15.236
Abatement of unsafe buildings, see § 29.007 et seq.

§ 29.205 OTHER PERMITS REQUIRED.

(A) Nothing in this subchapter shall affect the necessity of obtaining all applicable permits and paying all fees prescribed by other rules, ordinances or statutes of the county or the state.

(B) Nothing in this subchapter shall affect the powers and duties of county health officials in any respect, and those powers and duties, together with all regulations pertaining, shall be capable of exercise and enforcement in addition to this subchapter.
('90 Code § 9.30.080) (Ord. 362, passed 1983)

§ 29.206 VIOLATIONS.

A person shall not:

(A) Violate or procure, aid or abet, in the violations of any final order concerning the application of a provision of the State Building Code in a particular case made by the director, an advisory board, a state administrative officer or any local appeals board, building official or inspector.

(B) Engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code or

other regulation without first having obtained such permit, certificate, label or other formal authorization.
('90 Code § 9.30.090) (Ord. 362, passed 1983)

§ 29.207 FEES.

Before a permit may be issued for the installation, alteration, renovation or repair of a plumbing or sewage disposal system, fees shall be collected as set by Board resolution. Fees charged in this section relate to individual building or structure systems. Multiple service, private plumbing or sewage disposal systems, included but not limited to planned unit developments, shall be subject to plan review fees as set forth Chapter 27 of this code.
('90 Code § 9.30.100) (Ord. 362, passed 1983; Ord. 467, passed 1985; Ord. 533, passed 1986; Ord. 559, passed 1987; Ord. 585, passed 1988; Ord. 625, passed 1989; Ord. 729, passed 1992; Ord. 775, passed 1993; Ord. 800, passed 1994)
Cross-reference:
Fees for services of department of environmental services, see § 27.001 et seq.

GRADING AND EROSION CONTROL CODE

§ 29.300 PURPOSES.

The purposes of the Hillside Development and Erosion Control Subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated areas of the county, all in accordance with ORS 215. LCDC Statewide Planning Goal No. 7 and OAR 340-41-455 for the Tualatin River Basin, and the County Comprehensive Framework Plan Policy No. 14. This subdistrict is intended to:

(A) Protect human life;

(B) Protect property and structures;

(C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;

(D) Control erosion, production and transport of sediment;

(E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and

(F) Control stormwater discharges and protect streams, ponds, and wetlands within the Tualatin River and Balch Creek Drainage Basins.
('90 Code § 9.40.005) (Ord. 847, passed 1996)

§ 29.301 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CERTIFIED ENGINEERING GEOLOGIST. Any person who has obtained certification by the state as an engineering geologist.

CUT.

(1) An excavation;

(2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;

(3) The material removed in excavation work.

DEVELOPMENT AREA. The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

DRAINAGE AREA. The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

EARTH MOVEMENT. Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

EROSION. The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting therefrom.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

GEOTECHNICAL ENGINEER. A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

GEOTECHNICAL REPORT. Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

HDP FORM-1. The form required for specified developments subject to the Hillside Development and Erosion Control Subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.

LAND-DISTURBING ACTIVITIES. Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities include: excavations or fills, site grading, and soil storage.

MULCH. Materials spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

SLOPE.

(1) Any ground whose surface makes an angle from the horizontal; or

(2) The face of an embankment or cut section.

SLOPE HAZARD MAP. A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.

SPOIL MATERIAL. Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

(1) Permanent seeding, producing long-term vegetative cover;

(2) Short-term seeding, producing temporary vegetative cover;

(3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or

(4) Netting with seeding if the final grade has not stabilized.

WATER BODY. Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds.

WATERCOURSE. Natural and artificial features which transport surface water. ***WATERCOURSE*** includes a river, stream, creek, slough, ditch, canal, or drainageway.
('90 Code § 9.40.050) (Ord. 847, passed 1996)

§ 29.302 PERMITS REQUIRED.

(A) *Grading and erosion control permit.* All persons proposing site grading:

(1) Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards;

(2) Which obstructs or alters a drainage course; or

(3) Which takes place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater, shall obtain a grading and erosion control permit as prescribed by this Subdistrict, unless exempted by §§ 29.302(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.

(B) *Grading and erosion control permit.* All persons proposing land-disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.302(C) of this subchapter.
('90 Code § 9.40.010) (Ord. 847, passed 1996)

§ 29.303 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

(A) *Prior development.* Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.

(B) *General exemptions.* Outside the Tualatin River and Balch Creek Drainage Basins, all land-disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this Subdistrict if:

(1) Natural and finished slopes will be less than 25%;

(2) The disturbed or filled area is 20,000 square feet or less;

(3) The volume of soil or earth materials to be stored is 50 cubic yards or less;

(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

(C) *Categorical exemptions.* Notwithstanding divisions (A) and (B)(1) through (6) of this section, the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a permit pursuant to OAR 340-41-455(3):

(1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure. authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.

(2) Cemetery graves, but not cemetery soil disposal sites.

(3) Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).

(4) Mineral extraction activities as regulated by the county zoning code, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).

(5) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.

(6) Routine agricultural crop management practices.

(7) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.

(8) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

(9) Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry.
('90 Code § 9.40.020) (Ord. 847, passed 1996)

§ 29.304 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this Subdistrict shall include the following:

(A) A map showing the property line locations, roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.

(B) An estimate of depths and the extent and location of all proposed cuts and fills.

(C) The location of planned and existing sanitary drainfields and drywells.

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.
('90 Code § 9.40.030) (Ord. 847, passed (1996)

§ 29.305 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) *Design standards for grading and erosion control.*

(1) *Grading standards.*

(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The director may require additional studies or information or work regarding fill materials and compaction;

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

(c) Cuts and fills shall not endanger or disturb adjoining property;

(d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of ten-year design frequency;

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of ten-year design frequency;

(2) *Erosion control standards.*

(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the "Erosion Control Plans Technical Guidance 25 Handbook" and the "Surface Water Quality Facilities Technical Guidance Handbook." Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland: unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.

(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

(c) Development plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (e)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the "Erosion Control Plans Technical Guidance Handbook" and the "Surface Water Quality Facilities Technical Guidance Handbook" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas.

(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the Erosion Control Plans Technical Guidance Handbook (January, 1991). All land disturbing activities within the basin shall be confined to the period between May 1 and October 1 of any year. All permanent vegetation or a winter

cover crop shall be seeded or planted by October 1 the same year the development was begun: all soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1 the same year the development was begun.

(B) *Responsibility.*

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) *Implementation.*

(1) *Performance bond.* A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) *Inspection and enforcement.* The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the Hillside Development Permit or Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

(D) *Final approvals.* A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.
('90 Code § 9.40.040) (Ord. 847, passed 1996)

CONDOMINIUMS

§ 29.400 APPROVAL OF DECLARATION, PLAT AND FLOOR PLANS.

Before the declaration, plat and floor plans for a condominium, or an amendment, may be recorded, it must be approved by the county surveyor that it complies with ORS 92.080 and 94.042.
('90 Code § 11.20.100) (Ord. 311, passed 1982)

§ 29.401 FEE FOR REVIEW AND APPROVAL.

The fee for the review and approval of the plat and floor plans for a condominium shall be as set by Board resolution.
('90 Code § 11.20.200) (Ord. 311, passed 1982; Ord. 378, passed 1983; Ord. 680, passed 1991)

STREET STANDARDS

PART 1: GENERAL PROVISIONS

§ 29.500 TITLE.

This subchapter shall be known as the Street Standards Law, and may be so cited and referred to.
('90 Code § 11.60.005) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.501 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

FUNCTIONAL CLASSIFICATION. The various types of local streets, collectors, scenic routes, transit corridor streets, arterials, freeways, and transitways as defined and classified in the county comprehensive framework plan and its adopted classification map (§§ 29.561 through 29.570).

PLAN. The county comprehensive land use plan or any of its component parts, such as the framework plan, any of the community plans, and the like.
('90 Code § 11.60.010) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.502 AREA OF APPLICATION.

The provisions of this subchapter are applicable to every public right-of-way within the unincorporated area of the county, all county roads within incorporated cities, and all easements or accessways which may be required by the county code.
('90 Code § 11.60.030) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.503 POLICY; POWERS OF DIRECTOR.

It shall be county policy and the director shall be charged with the responsibility to:

(A) Exercise the county's authority under ORS 368, the county code, and other authorizing statutes to adequately supervise, direct and control the laying out, opening, establishment, changing, alteration, straightening, working, grading, maintaining and keeping in repair the streets and roads, and to exercise the authority for the improvement, the regulation of use, and the vacation or closure of streets and roads where appropriate.

(B) Promulgate such rules as shall be necessary for the administration and enforcement of this subchapter.

(C) Require the following from property owners, to the extent that they benefit from required or permitted improvements and to the extent that improvements are necessary to implement their share of the plan or protect the public from the undesirable effects of proposed land uses:

(1) Dedication of right-of-way required by county standards.

(2) Improvement of road or street to county standards.

(3) Construction of storm drainage facilities at county standard to serve the drainage basin, abutting property developments and street and road improvements.

(4) Installation of traffic controls, and devices, at county standard, necessary to accommodate circulation and a mix of traffic types.

(5) Construction of pedestrian and bicycle facilities, at county standard, necessary for safe circulation.

(6) Installation of street lighting facilities at county standard.

(7) Payment of all engineering and construction costs for improvements and facilities required in this subsection.

(8) Construction of sanitary sewers, water, and other utilities at the governing jurisdiction standard.

(D) The county may participate in improvements that exceed the requirements of division (C) of this section and where it is in the general public interest it may require payment equivalent to the cost of improvements and facilities rather than actual construction of those facilities and improvements. In such cases the county shall provide at least the equivalent improvements and facilities within a specified time period.
('90 Code § 11.60.040) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.504 ADMINISTRATION AND ENFORCEMENT.

(A) The director shall be responsible for administering this subchapter and all rules adopted under it.

(B) The director shall be responsible for the enforcement of this subchapter and all rules adopted under it. The director shall have the authority to initiate enforcement proceedings.
('90 Code § 11.60.050) (Ord. 162, passed 1978)

§ 29.505 INSTITUTION OF LEGAL PROCEEDINGS.

Upon recommendation of the director, the County Counsel, acting in the name of the county, may bring an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction any violations of this subchapter or the rules adopted under it.
('90 Code § 11.60.060) (Ord. 162, passed 1978)

§ 29.506 PERMITS REQUIRED.

A permit or agreement shall be required for any construction within the right-of-way or for any substantial modification of existing construction or use in the right-of-way and for any other matter relating to this subchapter that the director considers appropriate and for which a rule has been adopted. The director may establish, issue, administer and enforce permits necessary to implement this subchapter. Fees may be assessed for permits as set by Board resolution.
('90 Code § 11.60.070) (Ord. 162, passed 1978; Ord. 529, passed 1986)
Cross-reference:
Plumbing Code, see §§ 29.200 through 29.207

§ 29.507 VARIANCES FROM REQUIREMENTS OF THIS CODE OR ADOPTED RULES.

(A) The requirements of this subchapter or rules adopted under it may be varied by the director when written information substantiates that such requested variance is in keeping with the intent and purpose of this subchapter and adopted rules, and the requested variance will not adversely affect the intended function of the street or other related facility.

(B) All documents pertaining to the variance action whether approved or denied, shall be filed for future information including the director's action and the reasons.
('90 Code § 11.60.080) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.508 ACCEPTANCE OF DEEDS AND EASEMENTS FOR ROAD PURPOSES.

Upon recommendation of the county engineer, the Chair is authorized to accept on behalf of the Board deeds of land for county road or public road purposes and easements required for road improvement or maintenance purposes made by petition or proposal pursuant to ORS 368.073 (1985 edition).
('90 Code § 11.60.510) (Ord. 619, passed 1989)

STREET STANDARDS

PART 2: ADOPTION OF RULES

§ 29.530 INITIATION OF RULE ADOPTION.

The director, a member of the planning commission or any member of the Board may propose adoption, amendment or repeal of a rule under this subchapter.
('90 Code § 11.60.090) (Ord. 162, passed 1978)

§ 29.531 APPROVAL OF RULE FORM; FILING.

A proposed rule shall be approved as to form by the County Counsel and filed with the director, the clerk of the Board and with the staff of the planning commission.
('90 Code § 11.60.100) (Ord. 162, passed 1978)

§ 29.532 CONTENTS OF NOTICE OF INTENT TO ADOPT.

Notice of intent to adopt a proposed rule shall contain the following information:

(A) Description of the proposed action, such as, adoption, repeal or amendment.

(B) A summary of the intent, subject and content of the proposed rule.

(C) Complete text of the proposed rule where practicable, or the location, time and contact person for obtaining a copy of the complete text of the proposed rule.

(D) The time limit, location, contact person and format for submitting views and comments on the proposed rule.

(E) The time limit, location, format and contact person for requesting postponement of the action on the proposed rule.

(F) The time limit, location, format and contact person for requesting a public hearing on the proposed rule.
('90 Code § 11.60.110) (Ord. 162, passed 1978)

§ 29.533 NOTICE PUBLICATION.

The notice of intent to adopt a rule shall be filed with the clerk of the Board prior to publication. In addition to such notice as may be required by law, notice of intent to adopt a rule shall be made in the following manner:

(A) Publication in a newspaper of general circulation at least 15 days before the close of the review period.

(B) Posting in a prominent location in the county courthouse at least 15 days before the close of the review period.
('90 Code § 11.60.120) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.534 REVIEW AND COMMENT PERIOD.

The review period for submitting comments shall be 15 days and shall commence with publication of notice of intent to adopt a proposed rule.
('90 Code § 11.60.130) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.535 RULE ADOPTION.

If at the close of the review period there have been no requests for a postponement or a public hearing, the director shall, within ten days of the close of the review period, consider the review comments and either adopt or reject the proposed rule or adopt the rule with modifications. If a proposed rule is to be substantially amended as a result of review comments, it must be considered as a newly proposed rule. The adopted rule shall be filed with the director, the clerk of the Board and with the staff of the planning commission, within ten days of the close of the review period.
('90 Code § 11.60.140) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.536 POSTPONEMENT OF RULE ACTION.

If within the review period an interested person requests postponement of the intended action, the director, if the grounds are judged to be sufficient, shall postpone the intended action, no less than ten days nor more than 90 days to allow the requesting person an opportunity to submit data, views or arguments. A request for postponement must be made in writing to the contact person listed in § 29.532(E) of this subchapter and must include a statement of the identity and interest of the requesting person and of the grounds for requesting postponement.
('90 Code § 11.60.150) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.537 REQUEST FOR PUBLIC HEARING.

If within the review period ten or more persons, or an association with ten or more members or a

corporation requests, in writing, a public hearing on the proposed rule, the director shall announce and conduct a public hearing.
('90 Code § 11.60.160) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.538 PUBLIC HEARING NOTICE CONTENTS.

Notice for a public hearing on a proposed rule shall contain the following information:

(A) Description of the proposed action, such as, adoption, repeal or amendment.

(B) A summary of the intent, subject and content of the proposed rule.

(C) The date, time, place and presiding officer of the public hearing and the manner in which interested persons may present their views.

(D) Complete text of the proposed rule if practicable or the location, time and contact person for obtaining a copy of the complete text of the proposed rule.

(E) The time limit, location, format and contact person for appealing the decision to the Board.
('90 Code § 11.60.170) (Ord. 162, passed 1978)

§ 29.539 PUBLICATION OF NOTICE OF PUBLIC HEARING.

The notice of a public hearing shall be published in a newspaper of general circulation within the county at least ten days before the hearing. Notice of the public hearing shall also be given by mail to all parties who have submitted comments and to the mailing list of the interested parties.
('90 Code § 11.60.180). (Ord. 162, passed 1978)

§ 29.540 PUBLIC HEARING; ACTION ON RULE; FILING.

The director shall conduct the public hearing. At the close of the hearing the director shall adopt, reject or amend the proposed rule. No further notice is required for continuation of a hearing to a date certain. The director shall file notice of the action with the clerk of the Board and with the staff of the planning commission, within five days of the public hearing. Filing of the notice of action with the clerk of the Board initiates a ten-day appeal period. If no appeal is made, the action of the director shall take effect at the end of the appeal period.
('90 Code § 11.60.190) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.541 APPEAL TO THE BOARD OF COUNTY COMMISSIONERS.

Any interested person may appeal the action of the director on a rule after a public hearing on the matter. Any member of the Board may also request review of the action. Appeal must be made in writing and filed with the director within ten days of the filing of the notice of action with the clerk of the Board. Members of the Board must request review within the same period.
('90 Code § 11.60.200) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.542 APPEAL AND REVIEW REQUEST CONTENTS.

The appeal request shall contain the following information:

(A) An identification of the decision or action being appealed, including its date.

(B) A statement of the identity and interest of the person making the appeal.

(C) The specific grounds for the appeal.
('90 Code § 11.60.210) (Ord. 162, passed 1978)

§ 29.543 COMMISSIONER REQUEST FOR REVIEW.

A member of the Board may initiate review by requesting that the matter be placed on the agenda for the Board's next regular meeting.
('90 Code § 11.60.220) (Ord. 162, passed 1978)

§ 29.544 DATE OF HEARING.

Upon receipt of a valid appeal, the director shall schedule a hearing by the Board at the Board's next regular meeting for which the agenda has not closed and the date of which permits ten days to publish notice in a newspaper of general circulation.
('90 Code § 11.60.230) (Ord. 162, passed 1978)

§ 29.545 NOTICE OF APPEAL HEARING.

The county shall prepare notice for appeal hearings. The notice shall contain the information described in § 29.538(D) and (E) of this subchapter. Notice shall be published in a newspaper of general circulation in the county least ten days prior to the hearing. The county shall also notify by mail persons who have submitted comments on the proposed rule and to the mailing list of interested parties.
('90 Code § 11.60.240) (Ord. 162, passed 1978)

§ 29.546 CONDUCT OF APPEAL HEARING.

The appeal hearing shall be conducted at a regular meeting of the Board. The Board may adopt, repeal or amend the rule in question. The Board's action shall take the form of a Board order.
('90 Code § 11.60.250) (Ord. 162, passed 1978)

§ 29.547 TEMPORARY RULES.

The county may be confronted with a situation where it is necessary to put a rule into immediate effect in order to protect the public or the interest of particular parties. In that case and where there is not sufficient time to follow the procedural requirements set forth in §§ 29.530 through 29.546 of this subchapter, the county is authorized to adopt temporary rules.
('90 Code § 11.60.260) (Ord. 162, passed 1978)

§ 29.548 REQUIREMENTS FOR EFFECTIVE TEMPORARY RULE.

The director may proceed without prior notice or hearing, or upon any abbreviated notice or hearing as practicable, to adopt a rule without the notice otherwise required by this subchapter. In that case, the director shall:

(A) File a certified copy of the rule with the director, the clerk of the Board and with the staff of the planning commission.

(B) File with the rule the director's finding that failure of the county to act promptly will result in serious prejudice to the public interest or to the interest of the parties concerned. Findings shall be supported by a statement of specific facts and reasons.

(C) Take appropriate measures to make the temporary rule known to the persons who may be affected by the temporary rule, including publication in a newspaper of general circulation in the county as promptly after filing the rule as practicable and giving notice of the rule by mail to persons who may be affected by it.
('90 Code § 11.60.270) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.549 EFFECTIVE DATE OF TEMPORARY RULE.

A temporary rule adopted in compliance with § 29.547 and this section becomes effective immediately upon filing with the clerk of the Board or at a later time which may be designated in the rule itself.
('90 Code § 11.60.280) (Ord. 162, passed 1978)

§ 29.550 DURATION OF TEMPORARY RULE.

A temporary rule may be effective for a period of not longer than 120 days. No temporary rule may be renewed after it has been in effect 120 days. The director may, however, adopt an identical rule on notice in accordance with the procedure set forth in this subchapter.
('90 Code § 11.60.290) (Ord. 162, passed 1978; Ord. 529, passed 1986)

STREET STANDARDS

PART 3: RULE GUIDELINES

§ 29.560 GENERAL GUIDELINES.

(A) The functional classifications, urban boundary map, policies, and access requirements for various land uses, as adopted in the framework plan, and the definitions and standards in this subchapter shall serve as guidelines for requirements, standards and rules adopted under this subchapter.

(B) Under the current county policy which stipulates that urban level services should be provided by municipalities, the municipality standard may be specified where deemed appropriate by the director.
('90 Code § 11.60.300) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.561 FUNCTIONAL CLASSIFICATION.

(A) Functional classification categorizes roads and streets by their operational purpose. Some of the key factors considered when adopting the functional classifications in the plan were the following:

(1) Relation between street traffic and land use of abutting properties.

(2) Volume and kinds of traffic.

(3) Traffic speed.

(4) Relative origins and destinations of traffic and lengths of trips.

(B) The basic hierarchy of functional classification is local street, collector, scenic route, transit corridor street, arterial, freeway and transitway. The categories in §§ 29.562 through 29.570 of this subchapter define these functional classifications as well as other items necessary for street standards.

(C) The director may change an existing functional classification or designate a functional classification of collector or above for a new roadway, under the provisions of the rule adoption procedure of this subchapter. Such changes or designations shall be consistent with the general intent of the plan. All new roads are local unless otherwise classified under these provisions.
('90 Code § 11.60.310) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.562 LOCAL STREETS CATEGORY.

Local streets provide access to abutting property and do not serve to move through traffic. Local streets will be further categorized by adjacent land use into residential, commercial, and industrial local streets.
('90 Code § 11.60.320) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.563 LAND USE CATEGORY.

Within the local street classification, there may be considerable difference between the kind of improvement specified where commercial or industrial land uses access a local street, as compared to the kind of improvement specified for residential access. Generally, a local street classification in a commercial or industrial area will require an improvement equal to that specified for a collector classification.
('90 Code § 11.60.325) (Ord. 529, passed 1986)

§ 29.564 COLLECTOR STREETS CATEGORY.

Collector streets category gather area traffic from local streets within a one-half mile radius and connect it to the arterial system. They are not intended to serve through traffic, and they are the lowest order of street designed to carry transit vehicles.

(A) Major collectors have traffic volumes generally in the range of 4,000 to 10,000 vehicles per day.

(B) Neighborhood collectors have traffic volume generally in the range of 1,000 to 4,000 vehicles per day. Abutting land uses are generally residential in character.
('90 Code § 11.60.330) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.565 SCENIC ROUTE CATEGORY.

Scenic route category denotes a street which offers unique scenic views and is used as a scenic and recreational drive. Restrictions may be imposed to preserve the scenic character.
('90 Code § 11.60.333) (Ord. 529, passed 1986)

§ 29.566 TRANSIT CORRIDOR STREETS CATEGORY.

Transit corridor streets category denotes a street which serves a significant function of carrying high-grade transit service. Its traffic carrying function is secondary to its transit function. Ease of pedestrian movement and pedestrian safety are main considerations on this type of street.
('90 Code § 11.60.336) (Ord. 529, passed 1986)

§ 29.567 ARTERIALS CATEGORY.

(A) Arterial streets carry higher volumes of traffic, are often four lanes, and are the main traffic arteries.

(B) Principal arterials are generally four lanes or more and can carry a large volume of traffic, usually in excess of 25,000 vehicles per day. A significant feature of the principal arterial is its function to carry through trips; that is, trips which have not originated in or are not destined for the county area.

(C) Major arterials are generally four lanes which can carry a large volume of traffic, usually in excess of 20,000 vehicles per day. Their function is to serve intracounty trips; that is, trips which have at least one trip end within the county area.

(D) Minor arterials are generally four lanes which can carry traffic volumes usually in excess of 10,000 vehicles per day. Their function is also to serve intracounty trips.
('90 Code § 11.60.340) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.568 URBAN AND RURAL STREETS CATEGORY.

Streets may be further categorized by their location within broad land use categories. Urban roads and streets are those within areas designated urban in the framework plan. Rural roads and streets are those within areas designated rural or natural resource in the framework plan. The same hierarchy applies in both cases, but given the higher traffic volumes of urban areas, there may be considerable difference between the kind of improvement required for urban and rural roads of the same classification.
('90 Code § 11.60.350) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.569 FREEWAYS CATEGORY.

Freeways are high speed roadways with grade separated interchanges and no access to abutting properties. Their only function is to move traffic from one area to another and they generally can carry traffic volumes in excess of 60,000 vehicles per day. A sizeable portion of freeway traffic consists of through trips.
('90 Code § 11.60.360) (Ord. 162, passed 1978)

§ 29.570 TRANSITWAYS CATEGORY.

Transitways are rights-of-way devoted exclusively for transit use, either bus or rail.
('90 Code § 11.60.370) (Ord. 162, passed 1978)

§ 29.571 RIGHT-OF-WAY AND IMPROVEMENT STANDARDS.

The basic standards for right-of-way and improvements shown in Tables 1 and 2 adopted by reference of this subchapter are established by this subchapter. A County Design and Construction Manual will be prepared and maintained by the director which will establish more specific standards, and design and construction criteria. Periodic updating of the manual by written approval of the director is authorized by this subchapter.
('90 Code § 11.60.380) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.572 RULES FOR STREETS, ROADS AND RIGHTS-OF-WAY.

Requirements and standards may be established by administrative rule or the County Design and Construction Manual for streets, roads, and rights-of-way under this subchapter, and may include the following subjects:

(A) Criteria for application of functional classifications and variable standards.

(B) Permits, agreements and issuance and improvement procedures.

(C) Dedication procedures.

(D) Plan and profile format and submission procedures.

(E) Horizontal and vertical alignment:

(1) Widths;

(2) Intersections;

(3) Horizontal and vertical curve radii;

(4) Grade.

(F) Standard drawings for typical and structural sections.

(G) Surveying standards.

(H) Location, number, and size of facilities.

(I) Construction details and inspections.

(J) Other matters of design, construction or procedure.
('90 Code § 11.60.390) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.573 RULES FOR DRAINAGE FACILITIES.

Requirements and standards for drainage facilities may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Criteria for determination of need.

(B) Permits, agreements and issuance and improvement procedures.

(C) Plan and profile format and submission.

(D) Design factors, including:

(1) Runoff values;

(2) Capacity;

(3) Diameter;

(4) Grade;

(5) Location;

(6) Alignment;

(7) Separation from sanitary sewers.

(E) Construction details and inspection, including:

(1) Materials;

(2) Manholes;

(3) Joints;

(4) Anchor walls;

(5) Connections to existing buildings and sewers;

(6) Testing;

(7) Easements;

(8) Specifications.

(F) Other matters of design, construction or procedure.
('90 Code § 11.60.400) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.574 RULES FOR TRAFFIC CONTROL AND TRAFFIC CONTROL DEVICES.

Requirements and standards for traffic control and traffic control devices may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Functional classification.

(B) Criteria for establishing need.

(C) Permits, agreements, and issuance and improvement procedures.

(D) Plan and profile format and submission.

(E) Truck and transit routes, including transit stops, noise, weight regulation and environmental and economic impacts on surrounding area.

(F) Location, number and size of facilities.

(G) Other matters pertaining to design, construction, regulation, and procedures.
('90 Code § 11.60.410) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.575 RULES FOR PEDESTRIAN PATHS AND BIKEWAYS.

Requirements and standards for pedestrian paths and bikeways may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Functional classification.

(B) Criteria for establishing need.

(C) Permits, agreements, and issuance and improvement procedures.

(D) Plan and profile format and submission.

(E) Standard drawing, both typical and structural section.

(F) Horizontal and vertical alignment.

(G) Construction details and inspection.

(H) Other matters pertaining to design, construction, relocation or procedure.
('90 Code § 11.60.420) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.576 RULES FOR SANITARY SEWER.

The requirements for sanitary sewer design and construction shall conform to the rules, regulations and standards of the governing jurisdiction:

(A) Relationship to state Department of Environmental Quality Standards.

(B) Plans and profiles.

(C) Specifications.

(D) Separation from drainage.

(E) Capacity and diameter.

(F) Location, grade, depth, alignment and easements.

(G) Materials.

(H) Testing.

(I) Other matters of design, construction and procedure.

('90 Code § 11.60.430) (Ord. 162, passed 1978; Ord. 529, passed 1986)

Cross-reference:

Sewerage, see §§ 27.750 through 27.794

Plumbing Code, see §§ 29.200 through 29.207

§ 29.577 RULES FOR UTILITY LOCATION.

Requirements and standards for the location and installation of utilities in the right-of-way or county controlled easement may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Permits and issuance procedures.

(B) Liability, insurance and bonds.

(C) Construction and location details.

(D) Maintenance, removal and relocation.

(E) Inspections.

('90 Code § 11.60.440) (Ord. 162, passed 1978; Ord. 529, passed 1986)

Cross-reference:

Electrical Code, see §§ 29.100 through 29.106

§ 29.578 RULES FOR RIGHT-OF-WAY USE.

Requirements and standards for right-of-way use may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Permits, agreements and issuance, improvement, or use procedures.

(B) Allocation of costs.

(C) Location, number and size of facilities.

(D) Design factors and standards.

(E) Construction details and inspection.

(F) Maintenance, removal, and relocation.

(G) Liability, bonds, and control.

(H) Special or temporary use of the roads or right-of-way.

(I) Other matters of design, construction and procedure.

('90 Code § 11.60.450) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.579 RULES FOR STREET LIGHTING.

Requirements and standards for street lighting may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Need criteria;

(B) Permits, agreements, and issuance and improvement procedures;

(C) Design and location details;

(D) Construction details and inspection;

(E) Jurisdiction; and

(F) Other matters of design, construction and procedure.

('90 Code § 11.60.460) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.580 RULES FOR STREET TREES.

Requirements and standards for street trees may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Permit, agreement and issuance procedures.

(B) Species and location.

(C) Maintenance and removal.

(D) Other matters of design, installation and procedure.
('90 Code § 11.60.470) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.581 RULES FOR DEVELOPMENT SUPPORT AND FINANCING.

Requirements and standards for development support and financing may be established by administrative rule or the County Design and Construction Manual under this subchapter, and may include the following subjects:

(A) Cost sharing for oversizing:

(1) Selection criteria and procedures;

(2) Design criteria;

(3) Administrative procedures.

(B) Payment in lieu of construction:

(1) Selection criteria and procedures;

(2) Design criteria;

(3) Administrative procedures.

(C) Other matters pertaining to development support and financing.
('90 Code § 11.60.480) (Ord. 162, passed 1978; Ord. 529, passed 1986)

§ 29.582 RULES FOR ACCESSWAYS.

Administrative rules for accessway design and construction under this subchapter may address the following subjects:

(A) Permits and issuance procedures;

(B) Plan and profile format and submission procedures;

(C) Horizontal and vertical alignment;

(1) Widths;

(2) Intersections;

(3) Grades;

(D) Standard drawings for typical and structural sections; and

(E) Other matters pertaining to design, construction or procedure.
('90 Code § 11.60.485) (Ord. 529, passed 1986)

§ 29.583 RULES FOR STREET CLOSURE.

Administrative rules for street closure under this subchapter may address the following subjects:

(A) Procedures;

(B) Temporary closure;

(C) Short term closure;

(D) Permanent closure; and

(E) Other matters pertaining to policy, standards, and procedures.
('90 Code § 11.60.488) (Ord. 529, passed 1986)

§ 29.999 PENALTY.

(A) *Plumbing Code violations.* A person who violates § 29.206 of this chapter shall be subject to a civil penalty of not to exceed $100 per violation. In the case of a continuing violation, every day's continuance of the violation is a separate violation. (ORS 456.885) ('90 Code § 9.30.090) (Ord. 362, passed 1983)

(B) *Street standards violations.* No person shall violate any requirement of §§ 29.500 through 29.583 of chapter or rule adopted under it. Each violation is subject to a civil penalty not to exceed $500. It is a separate violation for each day during any portion of which a violation of any provision of this subchapter or rule adopted under it occurs.
('90 Code § 11.60.990) (Ord. 162, passed 1978)

TABLE OF PARALLEL REFERENCES

References to Oregon Revised Statutes
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REFERENCES TO 1990 CODE OF ORDINANCES

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1990 Code Section	*1998 Code Section*
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